

UNITED STATES DEPARTMENT OF TRANSPORTATION

**JOINT MEETING OF THE
TECHNICAL HAZARDOUS LIQUID PIPELINE SAFETY STANDARDS
COMMITTEE
AND
THE TECHNICAL PIPELINE SAFETY STANDARDS COMMITTEE**

Washington-Dulles Airport Marriott Hotel
45020 Aviation Drive
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Wednesday, February 4, 2004
9:00 a.m.

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P R O C E E D I N G S

9:00 a.m.

Welcome

MS. GERARD: Good morning and welcome. I think you all sat through a fairly rigorous day yesterday, and today's going to be even more rigorous.

And I think you're getting the idea that there's a lot of issues on our collective plates. I think it's an impressive group of people assembled in this room, and we always say we have a good committee, but now I think we really have a good committee. A lot of strength has been brought into service within this area. So I hope you're all getting to know each other a little bit.

And know that we'll expect you all to work as a team and that we will be updating you with additional information. As you all have thoughts and recommendations, I hope that Cheryl supports you in terms of distributing information among you.

So, as you've worked in the past, you have come up with ideas that were solutions which you shopped around with each other. And we count on you to do that.

So, the invitation is wide open. There are many topics on the agenda for today. While no actual votes from a statutory or a regulatory standpoint,

1 there's lots of things that we want your advice on.
2 So, the door is open. Today is sort of the entry point
3 into the discussion in most cases, but please continue
4 to think about these ideas and contact each other and
5 us after this.

6 CHAIRMAN KELLY: All right. The first item
7 on this morning's agenda is the last item on last
8 night's agenda, the Annual Update of Standards
9 Incorporated by Reference. And Richard Huriaux and --
10 all right. Richard Huriaux.

11 Update: Annual Update of Standards Incorporated by
12 Reference

13 Richard Huriaux

14 MR. HURIAUX: Are we on now? Okay. I think
15 we are.

16 The topic is standards. As most of you know,
17 we incorporate into the federal pipeline safety
18 regulations a number of documents -- about 80
19 documents, some of which are called standards, some of
20 which are called recommended practices, and some are
21 other documents.

22 Now, why do we incorporate these? Well,
23 number one, we don't want to repeat the work of the
24 consensus committees all over this country working with
25 API, ASME, and many other groups that have put

1 tremendous effort into developing standards for
2 everything from welding to tank maintenance to
3 liquefied petroleum gas standards, NFPA 58, and so on.

4 We're actually under direction from Congress
5 and the Office of Management and Budget to maximize the
6 adoption of technical standards as part of our
7 regulations. The OMB Circular A119 requires federal
8 agencies to use these voluntarily developed consensus
9 technical standards to the maximum extent for
10 regulatory purposes. This, of course, by referencing
11 this standard, allows us to keep technically more up to
12 date.

13 One of the problems with -- with regulations
14 is, if we -- if we make our own regulations, we're
15 really not recognizing the continuing technical
16 progress that's being made by manufacturers and
17 industry and pipeline companies and every -- all the
18 other players in the -- in the system.

19 So, as I said, we incorporate right now about
20 80 standards, and we have a number of our engineers who
21 are members of -- voting members of some of these
22 standards committees. For example, I'm a member of the
23 Gas Piping Technology Committee. We have other people
24 who are members of API committees, ASME 31.8.4, NFP
25 59A, and so on and so on. There are a lot of them.

1 Now, when we -- you always hear that we
2 incorporate standards by reference. I'd like to say in
3 just a minute what that means, and it's real simple,
4 actually. At least, initially it's simple.

5 And that is, when we say we incorporate say
6 API 1104, the welding standard, and we refer to
7 Sections 6 and 9 of that standard, we are making
8 Sections 6 and 9 part of our regulations just as if we
9 lifted the text and put them right into the Parts 192
10 and 195. There's absolutely no legal difference --
11 standard? The answer is no, although we prefer to
12 adopt ANSI standards.

13 Now, ANSI, of course, is the American
14 National Standards Institute, which is the U.S.
15 representative to the International Standards
16 Organization, and it's part of this later structure of
17 standards that encompasses the whole world.

18 An ANSI standard, the reason we like them is
19 because there's -- there are requirements for standards
20 developing organizations that they have to follow to
21 develop standards. It includes inclusiveness of
22 various stakeholders, voting procedures, format, and so
23 on. So, they tend to be, other things being equal,
24 higher quality standards, and they're standards that we
25 can tell our stakeholders are quality standards.

1 Now, we may choose to adopt a particular
2 standard or not depending on how it meets another
3 needs. And another point is that when we adopt a
4 standard, we of course list it in our regulations, such
5 as API 5L for line pipe, but we only adopt that
6 standard to the extent that we use the standard in the
7 text of the regulations.

8 An example would be API 1104, where we
9 adopted two sections. That means we're only adopting
10 those two sections. We're not adopting the other parts
11 of it.

12 Now, field people actually doing welding in
13 that case would follow all of API 1104 to the extent it
14 applies to their work as a matter of best practice, but
15 it would not -- those other sections would not be part
16 of our standards and would not be enforceable by our
17 federal and state inspectors.

18 For the last two years I've been working
19 along with Anne-Marie Joseph and a few others with the
20 Pipeline Standards Developing Organizations
21 Coordinating Council, which meets several times a year
22 -- (Name) is the chairman of it this year -- to discuss
23 standards, the standards-making process, the
24 incorporation of standards. And one very useful thing
25 that they do is provide us in December of each year

1 with a listing of standards that they think we should
2 consider adopting into our regulations, both new
3 standards and new editions of older standards. We just
4 received a communication from the PSDOCC which is
5 included in the package.

6 Also, in recent years, a very important role
7 for the Standards Committee is to help us satisfy our
8 congressional mandates and satisfy NTSB recommendations
9 and so on. Yesterday Jeff Wiese and others were
10 talking about API 1162, the Public Information
11 Standard. We reached out to API and industry and said
12 we need a better standard. Let's work together, let's
13 do this.

14 We've also done that with ASME -- the new
15 ASME B31.Q standard that's being developed, an operator
16 qualification standard. And there are a number of
17 others; I've provided a list of some of them.

18 So, we're always adopting new standards for
19 new needs to satisfy mandates and requirements, and
20 we're revising older standards, and occasionally we'll
21 -- we'll drop a standard, which -- either because it's
22 not needed any longer or because it's been subsumed
23 under -- under another one.

24 The Annual Standards Update Docket. This
25 spring we're going to institute an annual standards

1 update procedure in which we will, once a year, in the
2 spring, propose the adoption of revised standards and
3 get public comment on them, and then, as the year goes
4 on, go to a final rule to adopt them.

5 I can't tell you how many calls I get from
6 folks saying, you haven't kept up. There's a more
7 recent version of that standard and that's the one we
8 want to use. And we want people to use the most recent
9 version. Of course, if we agree with it.

10 So we -- we always have this delay problem
11 because we must, in adopting a standard -- it is a
12 rulemaking, and it's a rather long process: notice of
13 proposed rulemaking and final rules and comments. And
14 -- and of course, this committee always -- both of
15 these committees always have an opportunity to comment
16 and make suggestions on the adoption of standards, and
17 we look -- look forward to that input.

18 And not just on specific new -- new rules,
19 such as operator qualification or -- or public
20 information or -- or integrity, but also, in general,
21 these annual dockets. I really encourage everyone to
22 take a look at the standards that interest them and
23 provide us with comments either pro or con, adopting
24 the revisions, or perhaps saying, you know, there's
25 really another standard that is better for your purpose

1 than the one you proposed to adopt.

2 Another area in the government, the NIST, the
3 National Institute of Standards and Technologies, is
4 the standards coordinating body for the federal
5 government, and we have an annual contact with them.
6 They are becoming more active in feedback -- they're
7 becoming more active over the years in trying to
8 coordinate the federal standards-making process, and we
9 expect to have more and more contact with them.

10 And you heard yesterday in the research area
11 we're becoming a lot less parochial both by our own
12 desire and by our mandates. We've had to reach out to
13 other agencies to coordinate activities, and we're
14 going to see a lot more of this in the standards area
15 as well.

16 Are there any questions?

17 CHAIRMAN KELLY: Questions from the committee
18 members?

19 Ms. Epstein?

20 MS. EPSTEIN: Richard, when you're asking for
21 public comment on these standards, are they all
22 available essentially free to the public, or do -- do
23 people who comment have to purchase them and they be
24 made available to people who want to comment?

25 MR. HURIAUX: Well, the standards issued by

1 the various standards-developing organizations are all
2 copyrighted documents, so the short answer is, the
3 document is not available free to the public. However,
4 they are available for review in our offices for free.

5 This has been an issue over the years.

6 The bottom line is, they are copyrighted
7 standards, and one of the reasons they are is that the
8 standards-developing organizations finance their
9 operations through sale of the standards.

10 And so, Barbara, would you have any comment
11 on the copyright issue?

12 (Laughter)

13 MS. BETSOCK: No, other than we obviously
14 cannot copy and distribute them. But they -- they
15 really are available and you can come and peruse them
16 both in our offices and in the "Federal Register"
17 offices.

18 MS. GERARD: What about the regional offices?

19 MS. BETSOCK: If we have copies of them
20 there, if we've purchased copies.

21 MR. HURIAUX: Well, that's a good lead-in to
22 something else. There's always been a problem making
23 sure our inspectors and state inspectors have easy
24 access to these standards as well. And we're going to
25 make new attempts to try and get all of this online,

1 working with the standards-developing organizations to
2 make sure that all of our inspectors have full access
3 to them, which would then, of course, mean they'd be
4 available in all of our regional offices.

5 MS. GERARD: Well, if our regional offices,
6 what about the state offices?

7 MR. HURIAUX: We're working on getting them
8 available through the state offices, too, as part of
9 our partnership with the states.

10 CHAIRMAN KELLY: Marilyn Showalter, a
11 comment?

12 MS. SHOWALTER: I'm not sure if this is the
13 same as Lois Epstein's question or not, but once a
14 standard is proposed in a notice of proposed
15 rulemaking, at that point is it published, the
16 substance of the rule published, like any other
17 rulemaking? And once it's adopted --

18 MS. GERARD: The body -- the body of the
19 standard that's being incorporated.

20 MS. SHOWALTER: Right. In other words, is --
21 whatever content is being proposed as a rule, is that
22 available on line from the point at which it's proposed
23 and through its being adopted?

24 MR. HURIAUX: The preamble to the notice of
25 proposed rulemaking will have a short discussion of the

1 proposed adoption and the major features of it, but
2 some of these documents are rather thick. And they're
3 also copyrighted, so they are not in the docket. But
4 they are generally publicly available at some cost.

5 This has been a continuing problem, but I
6 can't say that we have any solution.

7 MS. GERARD: It would seem to me that if we
8 could make them available in our regional and state
9 offices that that gives you, you know, about 60 places
10 where you could go --

11 MR. HURIAUX: Yes.

12 MS. GERARD: -- if you're really interested.

13 MR. HURIAUX: And that's the direction we've
14 taken because these are copyrighted documents. And of
15 course, I know what's in your mind on this. The same
16 thing is in my mind. These are part of the federal
17 regulations and yet they aren't actually in the docket.

18 There's -- all that would be in the docket would be a
19 reference to where you could -- you could get the
20 document --

21 MS. EPSTEIN: -- not getting full public
22 comment on them because of their inaccessibility. It's
23 kind of tough from Anchorage to come in and look at
24 them at OPS Headquarters.

25 MR. HURIAUX: We're aware of and sympathetic

1 to that, and we're working to try to make it more
2 publicly available. But --

3 MS. EPSTEIN: Is it appropriate for the
4 committee to make some sort of recommendation that OPS
5 offices and state offices have copies of these
6 documents?

7 MR. HURIAUX: I think it's highly
8 appropriate.

9 MS. HAMSHER: We have to be careful to make
10 recommendation to state offices. It would be on our
11 views, but our real advice is, I think, to the Federal
12 Office of Pipeline Safety.

13 May I add another point? And I can't speak
14 to all standards, but -- but was quite involved in the
15 development, for instance, of Recommended Practice
16 1162, the Public Awareness Program that we talked
17 about.

18 And because of its very nature of being an
19 outreach- and communication-centered, this was an issue
20 that we were particularly -- it was made available
21 electronically in various draft forms for free
22 downloading and viewing for anybody during the drafting
23 and comment stage. So it did have extensive public
24 view during that drafting stage.

25 Now, once it is now published in final form,

1 of course, the standard-making organization has to
2 agree to -- the cost of preparing that. So then it's
3 available.

4 But I know that that one in particular,
5 during the drafting phase and the ANSI review process,
6 requires that openness and comment. There are copies
7 available specifically for comment. And I can't talk
8 about other technical standards --

9 MR. HURIAUX: A similar process is used for
10 other ANSI standards. The ANSI process requires it to
11 be open. And you put it very well. Once it is
12 published, it is a publicly available document, but it
13 is for sale. And those revenues are terribly important
14 to the -- the whole process.

15 We -- our objective is to make all these
16 documents available to states and federal inspectors
17 across the country.

18 CHAIRMAN KELLY: Mr. Lemoff.

19 MR. LEMOFF: Thank you.

20 I can speak for the National Fire Protection
21 Association. We do have a policy of making copies of
22 our documents available for the adoption process, you
23 know, by the DOT staff. And if that included copies
24 for the regional offices, that would be part of the
25 request.

1 MS. GERARD: How about the states?

2 MR. LEMOFF: We do --

3 MS. GERARD: We have about 60 state offices.

4 CHAIRMAN KELLY: And you should know that
5 you're going to need more copies.

6 MR. LEMOFF: If we received a request that it
7 was part of the document process, we would certainly
8 consider it. I would say that we do give each state
9 fire marshal copies of our fire codes, which has this.
10 Copies are available from most fire departments, at
11 least for review. They have an entire code set. And I
12 would certainly like to offer to make reasonable
13 numbers of copies available, you know, to members of
14 this committee -- both committees, should the need
15 arise.

16 MR. HURIAUX: Also, I'd add, many of these
17 standards are available in university libraries and our
18 technical library.

19 Now, I know that doesn't fully answer the
20 question of being easily available to the public in the
21 same way our dockets management system is accessible,
22 and we're working on it.

23 MS. GERARD: I would also comment that when
24 we are considering something as major, for example a
25 change to the operator qualification regulation by

1 considering the adoption of a major piece of work like
2 B31.8Q, that we would have public meetings on that.
3 And I -- I certainly expect that we will have public
4 meetings on that, and you know, probably a few of them
5 in different locations. And we would try, as we did in
6 the integrity management meetings, to get public
7 representatives there to give their view from a --
8 standpoint about the adoption or the non-adoption or
9 modification.

10 CHAIRMAN KELLY: Well, it appears that we as
11 a committee are coming out as recognizing that there
12 may be some legal restriction on accessibility of
13 documents that we expect the public to adhere to.
14 These documents need to be available for public
15 comment, and there are ways that have been discussed
16 around the table, whether it's the State Fire Marshals
17 and/or public meetings are ultimately considered by
18 OPS.

19 Are there any other comments or questions?

20 (No response)

21 CHAIRMAN KELLY: Any comments or questions
22 from members of the public?

23 I'm sorry. Mr. Nikolakakos.

24 MR. NIKOLAKAKOS: Most of these -- is it on?

25 PARTICIPANT: It was on.

1 MR. NIKOLAKAKOS: Most of these documents are
2 updated or revised every five years. How do you
3 propose to handle the changes, if any?

4 MR. HURIAUX: Well, each year in the spring
5 we'll be publishing a proposal seeking comments and
6 proposing to adopt the revised editions and explaining
7 the reasons for the adoption, seeking public comment,
8 and hopefully, by the end of each year, issuing a final
9 rule on the adoption. That way we can -- we can stay
10 at least within a year or so, which is about the best
11 we're ever going to be able to do, given our process.

12 So, there will always be a little bit of a
13 gap between adoption by a standards organization like
14 API or ASME or NPA of a standard -- of a revised
15 standard and our records of that standard in our
16 regulations. So, there would be between six months and
17 18 months delay.

18 There isn't anything we can do about it
19 because the adoption of a revised standard is a
20 rulemaking, and we have very specific rules to allow
21 public, beyond the -- beyond the standards committee's
22 adoption, public comment and so on, which is very open.

23 But we have rules. We have to abide by the
24 Administrative Procedure Act and so on. And that's
25 about as fast as you're ever going to do it.

1 Now, that would be a lot better than we've
2 done over the last 30 years, that's for sure. And so,
3 I hope that answers the question.

4 MR. NIKOLAKAKOS: Yes.

5 CHAIRMAN KELLY: Any other questions or
6 comments?

7 (No response)

8 CHAIRMAN KELLY: Thank you, Mr. Huriaux.

9 The next item, Departmental Drug and Alcohol
10 Program, Sheila Wright.

11 Brief & Discuss: Departmental Drug and Alcohol Program

12 Operator Collection of Contractor Test Result

13 Sheila Wright

14 MS. WRIGHT: I always like to do that, "Can
15 you hear me now?"

16 (Laughter)

17 MS. WRIGHT: I think I watch too much
18 television.

19 Good morning. My name is Sheila Wright, and
20 approximately 90 days ago I came to the Office of
21 Pipeline Safety as a program analyst, with one of my
22 primary responsibilities being management of the
23 Regulated Drug and Alcohol Testing Program.

24 This is my first time actually addressing the
25 committee. I do beg your indulgence if I veer from

1 procedure, and please pardon the clicking. That will
2 just be my knee. No --

3 (Laughter)

4 MS. WRIGHT: Don't worry about that.

5 Essentially, I came to this position from
6 DOT's Secretarial Office of Drug and Alcohol Policy. I
7 spent six years there as the special projects
8 coordinator. My 90 days here, I guess, my time has
9 expired, so apparently they can't send me back.

10 (Laughter)

11 MS. GERARD: Nor do we want to.

12 MS. WRIGHT: Thank you.

13 This morning I want to talk about an issue
14 that actually has been -- interest has been renewed and
15 raised in the Secretarial Office of Drug and Alcohol
16 Policy regarding reporting contractor employee annual
17 drug testing data. Now, I -- I think most of you have
18 the summary paper, and I won't waste your time actually
19 reading the paper, but I believe there's some newer
20 people here and I'll just briefly talk about the
21 history of that actual reporting.

22 Part of the regulations require for annual
23 drug and alcohol testing to be reported to the
24 Department. As a result, operators are required to
25 report their testing results. That data is used to

1 determine the next year annual testing rate. If the
2 test -- if a positive test results are 1 percent or
3 above for the industry, then the calendar testing rate
4 would be 50 percent. If it's below 1 percent for the
5 previous year, then the testing rate for the industry
6 would be 25 percent.

7 RSPA, in 1992, issued a final rule on the
8 management information systems collecting of drug and
9 alcohol testing data. In that final rule, the agency
10 addressed comments from the American Gas Association
11 and others regarding the reporting of contractor drug
12 and alcohol testing data on an annual basis.

13 At that time, American Gas contended, along
14 with many of the other commenters, that reporting of
15 contractor drug and -- drug testing data on an annual
16 basis should actually be the responsibility of
17 contractors and not operators.

18 Further, other -- other commenters stated
19 that they thought the position should be that
20 contractors should be able to report directly to the
21 agency on their drug testing data.

22 The agency addressed those comments with
23 their concerns that reporting of contractor data would
24 in fact be a problem in that a lot of the reporting
25 would be possibly duplicated because contractors work

1 for multiple pipeline operators, and it was determined
2 at that time that the agency would not require pipeline
3 operators to report contractor drug testing results on
4 an annual basis.

5 The Department determined that they would
6 probably reevaluate and look at that issue a year
7 later, after they had gotten some results.

8 Well, it's been many years now, and I don't
9 know -- I don't see an official record that -- whether
10 there's been an evaluation of that data. However,
11 again, as I said, the Office of the Secretary has
12 raised the issue and a concern about the reporting of
13 contractor data on an annual basis.

14 I did invite that office to come and
15 basically present its position. They were unable to
16 come. However, they did send a brief statement that
17 they would like entered into the record. And I think
18 you may have copies of that, but I will read it for the
19 participants. And this statement is from Jim Swart,
20 the current acting director of DOT's Office of Drug and
21 Alcohol Policy.

22 It begins:

23 "Per your invitation, we request that
24 this document be entered as part of the
25 official record of the Office of Pipeline

1 Safety Advisory Committee meeting, February
2 4, 2004. This document has been coordinated
3 with the Office of General Counsel.

4 "The specific issue with which we are
5 concerned has to do with management
6 information system reporting of drug and
7 alcohol testing data. Currently, Research
8 and Special Program Administration MIS
9 reports reflect results from covered safety-
10 sensitive employees who work directly for
11 pipeline operators but not from covered
12 safety-sensitive employees performing the
13 same functions who work for contractors to
14 pipeline operators.

15 "RSPA is the only DOT agency whose MIS
16 reports do not reflect testing data of
17 safety-sensitive employees hired by
18 contractors. RSPA rules must change to
19 specify that MIS reports be received
20 concerning all covered safety-sensitive
21 employees no matter who employs them.

22 "It does not matter particularly whether
23 the reports are made directly to -- by the
24 contractors or by the pipeline operators
25 themselves as long as the reports are the

1 results of all covered employees are included
2 in the annual MIS reports. However, it seems
3 to us that the former route is likely to be
4 more efficient. That is, via a regulatory
5 requirement on pipeline operators that their
6 contracts with contractors require the
7 contractors to make the report.

8 "The key point for the committee to
9 understand is that the issue of whether or
10 not to do this is not on the table. RSPA
11 heard Elaine Joost, in the meeting we had
12 late last year with Linda Knapp, DOT Office
13 of General Counsel, has already committed to
14 doing it. In our opinion, the only issue up
15 for discussion, other than the detailed
16 wording of the amendment, is what is the most
17 appropriate and expeditious RSPA regulatory
18 vehicle to use for this purpose."

19 To that end, we're here today basically to
20 begin a dialogue and as an information-gathering
21 session using this forum on the issue of drug and
22 alcohol -- excuse me, drug testing reporting for
23 contractors.

24 And I believe I would have to yield to the
25 committee and those of you representing the industry on

1 your authority and experience in this area.

2 Are there any questions or comments?

3 MS. GERARD: I want to inform the committee
4 that I was not advised of the commitment prior to it
5 being made, and I'm aware of the history from the '90s
6 on this action. I was very anxious to bring this
7 matter before the committee and all of you to
8 understand what this would entail.

9 Is this a difficult issue? It's not a
10 difficult issue. I don't know how a commitment can be
11 made to change a rule until the rulemaking process has
12 allowed for administrative procedure to take effect.

13 CHAIRMAN KELLY: Comments from committee
14 members?

15 MR. WUNDERLIN: I'll start off with a
16 comment.

17 CHAIRMAN KELLY: Mr. Wunderlin.

18 MR. WUNDERLIN: Yes, Jim Wunderlin. I think
19 you explained part of the problem that we have, you
20 know, as an operator. We have many contractors that
21 work for us, and a lot of these contractors have
22 regional offices and they work for other people all the
23 way across the country.

24 And I don't think we have a problem, you
25 know, having the data available, but making us

1 responsible, you know, it's how do we do this. You
2 know, do we take, you know, just the pool of, you know,
3 employees or contractors that are working for us? You
4 know, they may be in a larger pool used by the
5 contractor. It would be very difficult for us to -- to
6 provide that information on an individual basis and do
7 it.

8 I think one of the other things, you know,
9 the purpose of collecting the data, I think, as an
10 operator, you know, it's our job to go out and make
11 sure that those contractors are complying with the drug
12 and alcohol rules, and we do do that and we're very
13 diligent about that. We make sure that, you know, that
14 they're testing new employees when they come on and
15 make sure that the random pools are -- are being
16 processed correctly, et cetera.

17 The other thing is, you know, the concern,
18 and we talked about this a little bit as an industry
19 over the last few days, if there's a concern about our
20 contractors, you know, 100 percent of them are tested
21 for drug and alcohol before they're brought on as a
22 contractor as part of hiring the contractor. So I'm
23 not sure there's a real problem reaching out there as
24 far as having contractors, you know, and being
25 concerned about the public safety.

1 But certainly, we're not opposed to, you
2 know, helping you get that information. I'm just not
3 sure there's an easy answer on how to do that.

4 CHAIRMAN KELLY: Ms. Hamsher?

5 MS. HAMSHER: I -- I wanted to, I think,
6 reiterate a couple of those same points but also make
7 it clear, and perhaps this is unnecessary, but I want
8 to make it clear we are testing. All of the pipelines
9 have a thorough drug testing program for contractors.
10 The results of that program, that documentation is
11 subject to inspection now. So, I just wanted to make
12 that clear for those not perhaps directly involved in
13 the industry.

14 But this is really only a matter of how to
15 simply submit an annual -- some type of annual report.

16 It's not an issue of whether or not to test
17 contractors' employees, but that is a full and long-
18 standing protocol.

19 MS. GERARD: And that was the Department's
20 position. If it's being done, what's the big deal
21 about reporting it?

22 CHAIRMAN KELLY: Mr. Fant?

23 MR. FANT: Yes, this is Buzz Fant with Kinder
24 Morgan. And like other people, we have a program -- we
25 have 1060 contractors that we oversee. Our contractors

1 are both in the RSPA pool, contractors in the federal
2 -- pool, and we also have some in the -- pool for the
3 various operations. Those -- are already submitting
4 that information.

5 Now, we have a contractor who -- that we work
6 with who oversees and reviews and ensures the
7 compliance with those -- those contractors. It's our
8 understanding that that information, you know, is -- is
9 available at the lowest common point. We can generate
10 those.

11 However, I do want to make that point, number
12 one, we don't think it's a right move to come to us and
13 have us send you when 0.78 percent of those 1000 or so
14 contractors are in fact shared by many of the people in
15 this room. You would end up getting that many
16 redundant reports by however many people use them.

17 The second thing is, the letter that was read
18 here indicated that you wanted to put that -- that
19 responsibility, put it in our contract that they would
20 report to you. And so a question would be, then what
21 would be -- if we had any contractors -- that if a
22 contractor failed to meet a deadline or something, what
23 would be the ramification back on the pipeline company?

24 We can certainly put something like that in the
25 contract, but that would be a concern.

1 CHAIRMAN KELLY: Commissioner Showalter?

2 MS. SHOWALTER: Just picking up on that last
3 point, I -- I don't have a particular solution for the
4 problem posed here, but it does seem that there needs
5 to be a clear line of accountability from the
6 regulatory body, the Office of Pipeline Safety, to the
7 regulating company on down through the contract.

8 And if it is -- if it is a problem to ensure
9 that the contractors' employees are abiding by the
10 regulations, that is a problem, I think, of the
11 regulated company because it is a regulated company
12 that shouldn't be engaged in the contract unless they
13 can make that assurance in some way that is
14 satisfactory to OPS.

15 So, I -- I think that it is important for the
16 company to find a solution to this problem. I don't
17 know if it's prorating the use of the contractor. I
18 don't know what the mechanism is, but I think it's not
19 sufficient to say it's too hard for us to do. If it's
20 too hard for you to do, you can't do that kind of
21 contracting because that assurance has to be made.

22 The second point I want to raise, though, is
23 about the other side of this line of accountability,
24 which is, who and how is industry assuring that that
25 role, whatever form it takes, is being conformed with?

1 Because what I hear you saying is what we --
2 everybody. We do this automatically. My next question
3 is, this is not quite on point to this rule, but what
4 is happening now to the ability of the Office of
5 Pipeline Safety inspectors and the state inspectors to
6 ensure that this program is being complied with.

7 My understanding, and please correct me if
8 I'm wrong, is that there has been some abandonment of
9 inspections on this subject and lack of training of the
10 inspectors. At least, I'm told that my state,
11 Washington, still trains our own inspectors to do this.

12 We have done some training of our neighboring states.

13 But that in order to make the whole thing work, the
14 inspectors also have to be trained and -- and expect --
15 and I realize that's not quite -- but that's -- the
16 theme is, everybody's got to do their job all the way
17 up to our state line, including our inspectors.

18 CHAIRMAN KELLY: We'll get a response to
19 that, and then we'll hear from Mr. Comstock.

20 MS. GERARD: To my knowledge, we continue to
21 perform drug and alcohol inspections. I'm not aware of
22 any emphasis on retraining those inspectors, and
23 perhaps there needs to be. But to my knowledge, we
24 continue to perform drug and alcohol inspections.

25 And in the audience sits Jim O'Steen, who's

1 our deputy associate administrator. He supervises our
2 field operations.

3 Is that a true statement, Jim?

4 MR. O'STEEN: Yes, although it's not a
5 priority.

6 MS. SHOWALTER: I think that's where the gray
7 area is. I'm just reporting what my staff tells me, so
8 I make that caveat. But I'm told that the Traffic
9 Safety Institute no longer provides training to federal
10 and state inspectors on this point.

11 And it's just -- this is -- in order to make
12 the whole thing work, we've all got to do our jobs, and
13 the problem with priorities, unfortunately, is that if
14 something drops down to the bottom, then it doesn't get
15 done.

16 MS. GERARD: We can certainly take that as an
17 action item to reconsider what our -- that is a
18 priority for us.

19 The other thing I would add is, to my
20 knowledge, the incidence of accidents caused by this
21 problem is non-existent. And we do do investigations
22 to find out whether or not drug and alcohol is
23 involved, and that the statistical results of that is
24 decimal dust. So, I mean, there's a basis by which we
25 guide our program. We don't have evidence of this

1 being enough of a problem to put more of an emphasis on
2 it, as opposed to many of the other failure modes that
3 we are putting more of an emphasis on.

4 MS. SHOWALTER: And just to give one final
5 response, one reason I'm making this point is we did
6 have -- we did not have an accident in our state, but
7 one of our companies was not conducting the training
8 and the inspections on their own. The problem is, you
9 never know what you don't know.

10 MS. GERARD: Right.

11 MS. SHOWALTER: So, if -- if you can't be
12 certain that there aren't people who have -- who've
13 taken the drug, say, placing the pipeline with the
14 right amount of gravel in the bottom, you don't know
15 and won't know. You won't even know five years later
16 if this was the cause.

17 So, I'm just emphasizing the importance that
18 we really don't want people with impaired judgment
19 involved in the system and we need to enforce that.

20 CHAIRMAN KELLY: Mr. Comstock?

21 MR. COMSTOCK: Just as a piece of information
22 so that we have all that -- from the State of Arizona
23 -- and again, this is information -- last Thursday
24 the Arizona State Supreme Court in a ruling against the
25 City of Mesa found that random drug testing of a

1 firefighter or firefighters was an invasion of personal
2 privacy and was in fact illegal and our random testing
3 program for firefighters was removed.

4 So, if we go through the process of this,
5 that's just -- that's a ruling that went out last
6 Thursday. As we look at this process, although I don't
7 know how it affects 199, you know, we're looking at
8 what that means to us in the municipality. But the
9 fact was the State Supreme Court did rule against us in
10 that -- in that matter.

11 So, as we go through the process, I would
12 keep that in mind.

13 CHAIRMAN KELLY: Dr. Feigel, then Mr. Fant,
14 and then Mr. Drake.

15 DR. FEIGEL: It would seem to me that the
16 simplest programmatic way to resolve this would be to
17 have the operators report. If -- if the regulatory
18 point is not to chase individual possibly impaired
19 contracted employees that the -- then simply to have
20 the contractors report their experience and be done
21 with it. You get a -- you get -- and these -- if these
22 are the regulatory entities, then this parallels what
23 the regulatory commission does, for better or worse.

24 It's a much simpler system. That way the
25 question of redundancy, if you will, is up on the

1 table. It statistically can be managed, and you don't
2 have to worry about whether you're double-dipping or
3 not for that -- it's a much simpler system.

4 MR. FANT: (Off mike) I just wanted to --
5 this contractor that I was referring to actually
6 reviews the -- they check and make sure that the number
7 -- the statistical numbers are supposed to met every
8 time for every period they do an inspection.

9 So, the pipeline companies, we are overseeing
10 and monitoring to ensure our contractors are complying
11 with the regulations when they send employees out to do
12 operation maintenance -- on our pipeline, that they've
13 satisfied all of those. So it's not that we're not
14 overseeing -- compliance.

15 And as I indicated, during routine
16 inspections by OPS and the states -- it does come up.
17 So it is something that is being addressed.

18 CHAIRMAN KELLY: Thank you.

19 Mr. Drake?

20 MR. DRAKE: (Off mike) I certainly like what
21 you said about what -- and I don't want to rehash it.
22 I think it's important to understand that there's --
23 the screening tests are done -- 100 percent of the
24 people get tested. They don't get in the door if they
25 don't pass. Those tests are always done.

1 I think what we're talking about here is
2 random testing, the results -- the mean is low on the
3 random tests, which is good news. But I don't think we
4 can shirk our responsibility to follow up on that.
5 It's our obligation to track the data and submit it,
6 and so be it. And I agree with Gene Feigel. I think
7 that that model is the appropriate model, and we
8 probably need to call the industry and the contractors
9 -- with the regulators -- to hash out how to set up
10 that mechanism. It's really not that -- that big a
11 problem.

12 MS. GERARD: For the record, could you repeat
13 what the mechanism is?

14 MR. DRAKE: I think Gene --

15 MS. GERARD: Just say it again. Just say it
16 again for the record.

17 MR. DRAKE: Gene, do you want to say that
18 again?

19 DR. FEIGEL: I'll defer to you. You're more
20 --

21 (Laughter)

22 MR. DRAKE: I think the industry's going to
23 have to be accountable for collecting the information
24 as the primary vehicle in that mechanism, and that
25 we'll have to work with the contractors to sort out how

1 to preclude double-dipping and how to make sure that
2 the appropriate records are submitted. I don't think
3 we can abdicate that responsibility away from us. But
4 I think we'll probably have to have some public forums
5 to make that contractual deal consistent across our
6 industry and put it in place. We can't shirk that
7 responsibility.

8 CHAIRMAN KELLY: Any other comments?

9 Yes, Mr. Mallett?

10 MR. MALLET: (Off mike) Leonard Mallett
11 with TEPPCO. I think one of the deficiencies that the
12 industry created -- realized that they needed -- I
13 think that we could take the same approach for --

14 PARTICIPANT: (Off mike)

15 MR. BOSS: Terry Boss with INGAA. I very
16 much concur with Andy. I think this is an issue that
17 needs to be discussed in public, and clear, accurate
18 information gets presented on this subject as it's
19 discussed in public. And I think something should be
20 worked out on it, but we do need to clarify what's out
21 there.

22 CHAIRMAN KELLY: Thank you.

23 Any other comments?

24 MS. GERARD: Let me explain for the record.
25 Commissioner Showalter mentioned and my associate in

1 the room, Deputy Associate Administrator Jim O'Steen
2 mentioned a lack of priority on this issue -- a reason.

3 And I wanted to point out that we just filled the
4 position of drug and alcohol coordinator. It had been
5 vacant for some time. We're very pleased that we have
6 such a qualified person as Sheila Wright, who has just
7 taken up the reins 90 days ago.

8 So, if there's an appearance that we have not
9 had a priority on this, I want to tell you that that
10 was corrected and that if there's a gap in our training
11 curriculum, that that -- that will be corrected as
12 well.

13 I wanted also to comment on your point about
14 laying pipe in the ground.

15 MS. HAMSHER: (Off mike) -- regulation by
16 people before the pipeline is built?

17 MS. GERARD: No, we do not. Nor do our
18 operator qualification regulations -- apply to
19 construction. And -- discuss that as a greater safety
20 issue. And what it was that we had talked about was in
21 conjunction with taking up rulemaking to, in the
22 future, consider B31.Q being adopted into the
23 regulation, that at that time that I think we should
24 look at the question that Marilyn raised about laying
25 pipe and the drug and alcohol rules applying to new

1 construction.

2 (Laughter)

3 MS. HAMSHER: (Off mike) There is a reason
4 that that is not considered a covered safety-related
5 task. Whether it's incompetence, drugs, or whatever,
6 that step, as well as every other step in the
7 construction process, has to meet the requirements of
8 -- code but new construction -- a myriad of other
9 state, local, and federal requirements.

10 Subsequently, that pipe is tested before it
11 is put into service to make sure that there wasn't
12 anything done during construction, whether it was
13 welding or whatever, that would affect the ability to
14 put that pipe into service.

15 So, while I understand nobody wants -- people
16 out there working, the best way to do that is to make
17 sure that we have -- pipelines tested and inspected,
18 and they are. Drug testing isn't the way to eliminate
19 that -- it hasn't been shown to be a problem --

20 MR. DRAKE: (Off mike) I agree with Denise.
21 I think the implication is that the construction
22 process was out of control, and that is absolutely
23 inaccurate. There are many, many, many effects on that
24 process. When you look at the steps, there's X-rays
25 behind the welds, there's all kinds of -- on the coding

1 system as it's lowered into the pipe -- I mean, into
2 the ground. There's the hydrostatic tests that are
3 done after everybody's done touching the pipe, and all
4 kinds of continuity testing behind that.

5 And when you look at that, I think that is
6 the confidence -- construction --

7 And the other elements are very small in
8 their impact.

9 MS. GERARD: (Off mike) Just for the record,
10 clarify for me. In the discussions about B31.Q, the
11 ongoing inspections do include the -- associated with
12 new construction as taking paths -- integrity --

13 MR. DRAKE: I think we can defer to Daron
14 Moore. He's here in the room. He's the chairman of
15 the -- development.

16 MS. GERARD: Maybe we should hold that for
17 the next item on the agenda, but I just was -- I
18 brought it up because Marilyn made the statement about
19 new construction and I just wanted to make it clear
20 that we are not -- the regulations we're talking about
21 at this time do not apply.

22 MS. SHOWALTER: (Off mike) -- apologize for
23 my imprecise language because many in the audience are
24 more tuned into the nuances of words than I am. And I
25 actually don't think I -- new construction and didn't

1 mean to be implying that. But I was talking about -- I
2 think I did use words like "pipe in the ground."
3 Possibly, if I had been more precise, I would have been
4 talking about repairs.

5 MS. GERARD: Okay.

6 MS. SHOWALTER: I -- I was trying -- point,
7 and I apologize. But the point is that, from the
8 public's point of view and public officials' point of
9 view, it's simply very important that people who are
10 working on the pipelines not be impaired if they are
11 doing functions that are -- that could -- could --
12 where the function could be impaired, whether it's
13 operational or -- or repair if there -- if they are
14 impaired.

15 So, that is my only point, and I -- I see I
16 stirred up a hornet's nest.

17 (Laughter)]

18 MS. SHOWALTER: (Off mike) But I -- I --

19 MS. GERARD: (Off mike) I just wanted to
20 make clear -- there is a problem with the feed on the
21 mike, so we do need to take a short break so that they
22 can correct that.

23 CHAIRMAN KELLY: All right. A 10- to 15-
24 minute break.

25 (Brief recess)

1 CHAIRMAN KELLY: As many of you know --
2 retiring from his many years of service with the APGA,
3 and we'd like to recognize that and thank him for his
4 service.

5 (Applause)

6 CHAIRMAN KELLY: And I'll acknowledge that
7 he'll soon be a neighbor up in Connecticut, so I look
8 forward to that.

9 We're going to go back to the last item, the
10 Drug and Alcohol Program, because I believe that there
11 are a number of comments. And before I take new
12 comments, I'd like to recognize Mr. Mallett, whose
13 microphone was not working when he gave his comments
14 earlier.

15 MR. MALLET: Can you hear me now?

16 (Laughter)

17 MR. MALLET: The point I was making was that
18 the -- a lot of operators use a contract third party
19 group to administer their drug and alcohol programs for
20 contractors. And the suggestion was that the OPS
21 consider working with that group to collect the data,
22 somehow working with -- somehow tapping into that --
23 that source for contractor data on drug and alcohol
24 testing.

25 CHAIRMAN KELLY: (Off mike) Thank you.

1 Mr. Drake, the proposal that you articulated
2 -- Dr. Feigel earlier. Just to make sure that we have
3 that on the -- for the stenography, can you --

4 MR. DRAKE: (Off mike) I'm kind of a little
5 bit allergic to trying to paraphrase other people's
6 proposals, but I think that, one, we will -- we do need
7 to have a public meeting on this between the operators,
8 the contractors -- we'll work out a mechanic how to
9 execute this. It is a responsibility that we have, and
10 we need to fulfill that responsibility.

11 There are many good models out there for how
12 to work through this issue. I think when you deal with
13 the facts about the differentiation between the 100
14 percent screening tests and the random tests, this
15 issue becomes very manageable, and I think that we can
16 work through the mechanics of that into some of the
17 models that Dr. Feigel talked about. And I think we
18 can resolve this issue.

19 CHAIRMAN KELLY: Thank you.

20 Mr. Fant, you had additional comments?

21 MR. FANT: Yes. I -- I just wanted to bring
22 up another issue in -- relative to contractor data.
23 What is -- and this is a, I guess, more a question than
24 a comment. But currently the -- the idea is, if we
25 each have a certain threshold of percent positives,

1 then the rate would go up. And the question is, how
2 will you handle that from the contractor? For example,
3 can we have a pool that would look at the contractor's
4 rates and test them at one rate, and then pipeline
5 operators at another rate?

6 And I would like to recommend you all
7 consider that if -- you know, when you start gathering
8 this data.

9 CHAIRMAN KELLY: Thank you.

10 Mr. Harris, did you have a comment?

11 MR. HARRIS: Yes. Stacey, you mentioned
12 about regulating new construction. It seemed to me
13 that was a broader context --

14 MS. GERARD: Yeah. Right. It was.

15 MR. HARRIS: Could you speak to that a little
16 bit? I think all of us would be very interested in
17 that.

18 MS. GERARD: Well, the next presentation is
19 going to be by Stan Kastanas on the Operator
20 Qualification Initiative, and that's really the context
21 that we've been talking about that. So, we can hold up
22 until his presentation.

23 CHAIRMAN KELLY: Any further comments or
24 questions?

25 Yes, Dr. Feigel.

1 DR. FEIGEL: To the -- to the point -- I'm
2 sorry. Mr. -- ?

3 MS. GERARD: Fant.

4 DR. FEIGEL: (Off mike) -- Fant made, I
5 think the point is well taken. And there -- without
6 getting overly scientific, there are statistical tests
7 that can be applied to make up for any problems -- it's
8 a technical problem.

9 CHAIRMAN KELLY: Ms. Hamsher?

10 MS. HAMSHER: Denise Hamsher, Enbridge. Just
11 one short comment. I actually just verified it outside
12 in the hall.

13 In our experience with our company, there has
14 been no let up on the focus on compliance with the
15 existing rules for contractor and/or our worker drug
16 testing compliance.

17 Now, that being said, it is a complicated
18 type of audit to do. There's a lot of understanding of
19 rules and testing and significance. So, our experience
20 is that it's not often included in the routine
21 inspection, but periodically it is a special focus and
22 that special focus inspection has continued as it has
23 been --

24 CHAIRMAN KELLY: Thank you.

25 Ms. Gerard?

1 MS. GERARD: Well, I'm -- I'm really pleased,
2 pleasantly, with the reaction of the industry members
3 of the committee. I didn't know what to expect, since
4 we haven't talked about this in a very long time. And
5 you know, given everything that's on our plate, I see
6 Marty Matheson from API and Terry Boss from INGAA and
7 Laurie Traewee sitting in the audience.

8 Could -- could we work on a plan for a
9 meeting and, you know, just if you all could think
10 about what it would take to, you know, get a team of
11 people to sort of structure what the issues are and
12 what the options are and how we might approach that
13 and, you know, give us a sense of when you think you
14 could have such a meeting and allow preparation? And
15 then I'd certainly like to ensure that some of the
16 members of the committee could be present for those
17 discussions.

18 And so, I think as soon as we could hear back
19 from the three of you at a minimum, we'll try to set a
20 date and then go to the committee and see who might be
21 available to participate.

22 CHAIRMAN KELLY: Mr. Andrews.

23 MR. ANDREWS: Yes, thank you.

24 The comments made earlier about
25 prioritization, training, and resources, every time a

1 new rule is passed I don't think new inspectors are
2 sent down proportional to the compliance. We would
3 expect that when a rule such as OQ comes down the pike,
4 you expect the emphasis of training to change from drug
5 testing over to OQ. And --

6 CHAIRMAN KELLY: And that's what's happened.

7 MR. ANDREWS: And that's exactly what's
8 happened. I don't think it's a -- should be taken as a
9 deemphasis on drug testing training or a deemphasis on
10 drug testing, but our resources are on operator
11 qualification now. We only have so many resources.
12 And every time a new rule is passed, we have to change
13 our prioritization, and we expect that every time a new
14 rule is -- is put upon us.

15 CHAIRMAN KELLY: Thank you.

16 Ms. Schelhaus? And let me welcome Ms.
17 Schelhaus to the meeting. She's just appearing today.

18 MS. SCHELHAUS: Thank you.

19 I just would -- since this is the only mode
20 that isn't doing it, I would suggest looking at what
21 the other modes are doing relative to their contractor
22 reporting and stuff and how they're handling it.
23 Because they may have a process already -- basic
24 process already figured out that could be applied.

25 CHAIRMAN KELLY: Any further comments?

1 Ms. Wright?

2 MS. WRIGHT: Yes, and I'll just address that
3 briefly. For the other operating administrations
4 currently, as they have considered -- as well
5 considered people who contract as employees they --
6 whomever they happen to be working for reports those
7 particular contractors with their actual employees,
8 even if they're doing volunteer work. And I don't
9 think they have that variance of contractors or as many
10 working for multiple employers as we have. But they
11 have been doing --

12 CHAIRMAN KELLY: Further committee comments?

13 (No response)

14 CHAIRMAN KELLY: Any other comments from the
15 public?

16 MS. MATHESON: Marty Matheson with API.
17 Since I've been given a task, I'd like to clarify
18 something. If we have such a public meeting, can we
19 invite the Office of the Secretary to participate and
20 to get a confirmation that we intend to follow the
21 Administrative Procedures Act for pursuing this with a
22 full public comment and to decide whether there's a
23 cost benefit associated with undertaking this work as
24 well?

25 MS. GERARD: I think we're required to.

1 MS. MATHESON: Okay. I just wanted to make
2 clear that we weren't just, you know, doing something
3 off on our own without following administrative
4 procedures.

5 MS. GERARD: No, and let me clarify. I'm
6 looking at the three of you to tell us when a good date
7 would be. I'm not asking you to set it up.

8 MS. MATHESON: Okay.

9 MS. GERARD: I'm asking you to say what's
10 realistic. I'm sensitive to all the other things we
11 are already working on, and so if you could just give
12 me -- you know, get together and decide what would be a
13 good time frame.

14 MS. MATHESON: Be happy to do that.

15 CHAIRMAN KELLY: Ms. Traewick, did you have
16 any comments?

17 MR. BENNETT: I'm Phil Bennett with the
18 American Gas Association. And we -- we are impressed
19 with the comments. I think we had a lot of positive
20 suggestions, and AGA really does support sitting down
21 in a public setting to discuss drug and alcohol
22 testing.

23 The important thing we do want to say is
24 that, and it was said, the existing program is working
25 very well. When you look at the history over the last

1 few years, we have used the third party vendors to
2 really have an efficient system where operators
3 actually don't have the expertise to do their own
4 testing. They're really going to the third parties who
5 do all the screening, all the testing, all the medical
6 reviews, and actually just get reports and then forward
7 that to OPS.

8 And I think we really can -- the operators --
9 contractors are already incorporated into that system,
10 and the last step is really just a management process
11 to get the data that's already there to use. So, I
12 think we can have a very quick public meeting and can
13 work through the Administrative Procedures Act and make
14 some necessary changes if that's appropriate.

15 MS. GERARD: Are there an adequate number of
16 contractors to do this work? I'm aware of a very small
17 number of contractors handling a large amount of the
18 work.

19 MR. BENNETT: And that is an important point.
20 There are a small number of contractors, and that's
21 why the system is really dependent on the vendors, and
22 actually, I think OPS already has the power to audit
23 and accumulate some of that data. You might want to
24 research that aspect to see if you can do that directly
25 rather than go through the contractors. I don't know

1 what the policy is.

2 MS. GERARD: I'm fairly certain we don't have
3 the authority to regulate the vendors.

4 MR. BENNETT: Not regulate, audit and receive
5 the information. And some of the modes -- I talked to
6 a third party vendor, National Compliance, and FAA
7 actually goes and does random audits and gets
8 contractor information directly from the vendors.

9 MS. GERARD: Barbara, is our authority
10 different than theirs?

11 MS. BETSOCK: Our authority is different.
12 The way we might be able to do it is through some kind
13 of agreement that is put into the contract by the
14 company. Our authority is to -- to go onto the
15 property of the pipeline company and audit their
16 records.

17 MS. GERARD: I guess my question about the
18 vendor numbers was if there's any potential conflict of
19 interest for the vendors, given that there are such a
20 small number of them, you know, how they're -- how
21 they're analyzing and presenting information.

22 CHAIRMAN KELLY: And those are some of the
23 issues that can be pursued when you -- when you have
24 the need.

25 The gentleman on the left, you had a comment?

1 I guess not.

2 Anyone else? Yes, Mr. (name).

3 AUDIENCE MEMBER: Bob -- with APGA. We're
4 supportive of working together and look forward to that
5 participation.

6 I think it's -- it's incumbent upon industry
7 and government to sit down and work through this
8 before, I hope, before there's a rule or whatever,
9 because there's a lot of issues that can be addressed
10 and coordinated. I agree with Phil; there's a lot of
11 information that can possibly be shared today.

12 So, I think as we move forward you could
13 somehow pull together the information that's there. We
14 would certainly support that.

15 As far as contractors, across the country,
16 there's 950 public gas systems, and most of those are
17 using contractors today, some regionally, some by
18 states, and some of their -- their contractors are
19 going to these same folks. So, I think you may find
20 that there's a lot of coordinated information that is
21 now available that can be shared or -- audited. And I
22 think if we start small -- and I agree with Ben,
23 there's an awful lot of things on the plate now for a
24 lot of the systems. So we need to --

25 CHAIRMAN KELLY: Thank you.

1 Thank you, Ms. Wright for your presentation.

2 A lot of issues have come up, I think, that will help
3 with the upcoming meeting. And certainly to the extent
4 that committee members or members of the public have
5 other thoughts or concerns, it should be discussed at
6 that meeting.

7 Our next item is OQ, which this discussion
8 has been a great segue into.

9 Mr. Kastanas?

10 Brief & Discuss: Amendments to Gas and Hazardous

11 Liquid Pipeline Operator Qualification Program

12 Stanley Kastanas

13 MR. KASTANAS: Yes. Good morning, ladies and
14 gentlemen. My name is Stanley Kastanas. I'm the
15 director of enforcement programs for the Office of
16 Pipeline Safety.

17 Like Sheila, I'm somewhat of a newbie, except
18 I'm 300 days young into this. Sometimes I feel 10
19 times 300, given the workload that seems to pass
20 through this office. I'm amazed. I really feel that
21 this industry -- coming from industry, everybody should
22 have that wonderful exposure to be a regulator some day
23 and see what it takes to make these programs run. So,
24 I certainly don't -- shock and awe, yes.

25 (Laughter)

1 MR. KASTANAS: Just a little bit of, as a
2 good friend of mine calls it, shameless promotion of
3 our little enforcement group, our primary mission is to
4 establish an enforcement policy for OPS to do quality
5 control and quality assurance auditing of the programs,
6 such as the issues you brought forth on drug
7 enforcement. We have some limited enforcement or
8 compliance authority to go after non-compliant
9 operators. We're also supporting various agencies that
10 are taking on various initiatives.

11 In our spare time, we're also taking on
12 assisting in a variety of programs that you'll hear
13 from Jason Roop: gathering lines, LNG, operator
14 qualification, permitting. All these things are --
15 certainly come out of our group, and we're certainly --
16 I'm certainly grateful for the people that work in it
17 and support these initiatives.

18 Operator qualification is a never-ending
19 story, and for those of you who are, hopefully, not too
20 tired of it, I'd like to discuss with you today some
21 issues that have come up with it as we move through it.

22 I'm going to discuss with you today
23 revisiting the requalification interval. That seems to
24 have caused some problems. I'll tell you why and where
25 that has happened. I'm going to offer you or discuss

1 with you a concept of where we think we would like to
2 modify it, and then solicit your advice with regards to
3 that.

4 Why revisit it? I ask myself all the time.
5 Essentially, back when -- when Congress actually asked
6 us to create standards and criteria for the efficacy of
7 our OQ program, we needed to develop those standards
8 which -- and criteria which we call a protocol. And
9 that certainly caused some -- caused some concern with
10 operators as to what we were asking, what we were
11 investigating, and so forth.

12 That preempted discussions as to looking into
13 things that we didn't cover beyond maintenance, and
14 that is to go into the area of new construction. One
15 of the venues or one of the avenues that we're
16 exploring is going into a national consensus standard.

17 There is the ASME B31.Q rule. Daron Moore, the
18 chairman, is here, and if I say anything out of context
19 or wrong, please speak up. I know you hold back on
20 those things, so --

21 (Laughter)

22 MR. KASTANAS: Essentially, it's a great
23 working group. We're doing a lot of great work.
24 Certainly, there are things that I can't discuss
25 because it's the way of the ASME policy, but I can tell

1 you its mission is to look at all things that could
2 result in some kind of failure or accident. And so,
3 there's -- we're looking at things like decision trees,
4 qual trees, and the criteria that would lead us to
5 those covered tasks. And of course, that -- that's a
6 subject of discussion, too: what should we call all
7 these things that could create an accident or event.

8 So, we're -- we're exploring those things,
9 and I believe in due time it will come down to the
10 safety-sensitive items that were discussed here. And
11 it could result in some new construction items that
12 certainly could lead to an event. We do the testing,
13 we do all the QA/QC before a pipeline is gassed and
14 readied and put into service.

15 Certainly, there are things that we can avoid
16 even in that testing phase that we certainly want
17 qualified people. And if that spills over to some
18 degree as the national consensus standard develops, we
19 may be able to incorporate some of these things, I
20 don't know how seamlessly, but we may be able to
21 incorporate some of these things as we move into the
22 area of addressing new construction, emergency
23 response, excavation, and other things that were
24 identified in our San Antonio public meeting almost --
25 this time last year.

1 So, we hope to bring this to fruition, and I
2 don't know if you want to discuss this or have any
3 questions in regards to that point.

4 Daron, is there anything you wish to add as
5 far as the B31.Q mission that -- I'm not sure how far
6 it can go in this that would help address the concerns
7 of new construction.

8 MR. MOORE: Thank you, Stan.

9 My name is Daron Moore with El Paso
10 Corporation. Our mission statement -- our scope, I
11 should add, is focused on safety and integrity. Those
12 are the key words. And implied in what Stan just
13 mentioned as far as it can encompass things that could
14 relate to the threat to a pipeline, the failure
15 mechanism. And so that broadens the scope somewhat
16 from what we've had in the past, and there are very
17 specific reasons why we've done that.

18 Stacey alluded to some public meetings coming
19 up on operator qualification. I certainly will spend a
20 lot of time discussing the reasons why the scope is
21 what it is at that point in time. We're focused on
22 safety and integrity as the scope of the operator
23 qualification standard.

24 Thank you, Stan.

25 MR. KASTANAS: Okay. Thank you.

1 Yes, Stacey.

2 MS. GERARD: I -- I just -- I had asked Stan
3 to be kind of forward-looking in his discussion with
4 you because, while we have kind of mini rule on the
5 table, I want it to be clear this has been, you know,
6 such a priority with states for many years. It's been
7 a priority of the NTSB. Cliff Zimmerman's here from
8 the NTSB. And we still have an -- a "closed
9 unsatisfactory." It's the only one we have that's
10 "closed unsatisfactory" in our NTSB record.

11 And so, while I'm hopeful that, you know, we
12 can make progress with that with the mini rule, long-
13 term it just seemed that the work of -- that I heard
14 about from B31.Q was just so positive that our
15 considering taking that up would be a major change to
16 the regulatory structure we have in place now for
17 operator qualification.

18 So, I just wanted you as the advisory
19 committee to be aware of it and to track this, and I
20 don't know what the time frame would be for the public
21 meetings on this. Probably not until after summer,
22 correct?

23 MR. KASTANAS: Yes. I suspect when we go to
24 balloting at that point, we certainly can open this up.
25 Certainly, as Richard alluded to, and others, they

1 will open that up to public comment.

2 MS. GERARD: Well, it will be a major issue
3 for the committee, and we -- we would like today to set
4 the date for the next committee meeting, if we could.
5 And so, if it would be possible to give us a time frame
6 for what might be a fruitful time to bring this back
7 before the committee for some discussion, you know,
8 maybe you can think about that while the meeting is
9 going on before Linda calls for that later.

10 MR. KASTANAS: Yes. Right now it's certainly
11 not before summer, maybe even early fall is a fair
12 indication in the process of implementing it.

13 Anyway, hopefully, that addresses some of the
14 ways that we're bringing in new construction into the
15 fold, and other things, not just that. There are many
16 things that are coming up as we go through this. It's
17 certainly been an eye-opening experience, and we're
18 very much involved in this whole process. And we're
19 hoping that we take care of dotting the I's and
20 crossing the T's so that we can go from establishing a
21 national consensus standard and moving it into a
22 regulation.

23 We're making a lot of effort and spending a
24 lot of time in getting this done. The states and --
25 the state government and federal government are both

1 involved in this process. It's not just us. We're
2 partners together working on this, so nobody's being
3 ignored in this. We have contractors, we have a whole
4 bunch of folks that are really involved in this. They
5 seem to see the writing on the wall and are certainly
6 embracing this initiative, and hopefully, it will come
7 to some fruition.

8 MS. GERARD: Is there any labor involvement
9 in the discussions?

10 MR. KASTANAS: Yes. Oh yes. Yeah, labor
11 unions, contract labor unions, and so forth are
12 involved in this process. We even have the -- groups
13 in there that are very much interested.

14 So, it's -- it's a wonderful thing, and
15 hopefully it'll all come to fruition.

16 Getting back to this, the protocols certainly
17 initiated for our inspectors to go out and look at
18 operators and see what some of the issues might be.
19 Certainly, we had a -- evaluation when the first phase
20 of OQ came in, and as we looked at the proportion for
21 intervals, we found operators -- some. This is not a
22 general statement of the industry, but we do have some
23 operators that are pushing the limits of what is
24 considered requalification.

25 And I must add, and I'm not going to sit here

1 and do wordsmithing with all of you, when I say
2 requalification, when it comes to this portion of it,
3 I'm only talking about the next interval where you test
4 for knowledge, skills, and ability. I'm not talking
5 about retraining and things like that, all right. This
6 is -- I'm not sure how we're going to address that.
7 Maybe in the preamble we'll talk about things like that
8 so it's clear to everybody what we mean by the
9 requalification interval, that we mean truly
10 reevaluation, if an individual is still a competent
11 technician to perform that type of task.

12 Anyway, what we discovered out there -- and
13 I've put on the board, there's certainly questionable
14 use of -- I'm not sure if it's even scientific
15 analysis. It's certainly anecdotes of who's qualified
16 out there. We really have limited performance
17 standards because the industry did not capture a lot of
18 things that they've done probably so well, but it's not
19 listed there, other than possibly some payroll records.

20 So, that's -- that's an issue. Hopefully,
21 we're going to try -- we're trying to address it with
22 B31.Q to see how we can capture that data so that --
23 that decision-making process of when the next interval
24 for requalification or reevaluation should apply.

25 Certainly, the -- the last two items of

1 rejustifications certainly involve things like, well,
2 they repeat the job day to day, but unfortunately, a
3 lot of these folks are qualified for multiple covered
4 tasks. It's not just a primary mission that somebody
5 just coats pipe. The person who coats the pipe may
6 also beat the pipe, which is looking for holidays or --
7 or breaches in the coating and so forth, or they may do
8 something else that's cathodic protection-related, or
9 spring over to some other area.

10 So, it's -- it's very disconcerting to say
11 that we can push this out. In one, certainly, case,
12 you know, some people are pushing it out to a person's
13 retirement. That's just not what the intent of OQ was.

14 And unfortunately, and certainly the presidential
15 reports and Congress said, we're not waiting for a
16 catastrophic failure. We're not waiting for events to
17 happen to recognize that somebody's proficient or not.

18 We're trying to prevent those things from happening.

19 They identified, certainly, worker errors or
20 workmanship as being a key factor in some of the -- in
21 a majority of the incidents that showed up.

22 Anyway, when you all met together and
23 discussed the three concepts that were proposed, this
24 is what you adopted, the first one. For individuals
25 performing a covered task, provide the basis for

1 requalification and the requalification interval for
2 each task. The modification to this now is to put in a
3 limitation, and a limitation is five years. That's not
4 an arbitrary number. It's -- it's very realistic. It
5 addresses, as I noted here, the multiple qualifications
6 that people have to take for various covered tasks.

7 It also addresses large companies who have,
8 you know, a 2- or 3000-people workforce and they have
9 to try to get all those folks through. You're talking
10 tens of thousands of tests, whether they be a written
11 test or performance test, to get those folks through.
12 So, essentially there is staff always going through
13 reevaluation all the time.

14 It's not unreasonable for a small operator,
15 okay, who will have the time to take care of a lot of
16 these things. There are a lot of ma-and-pa operations
17 out there, and we need to be cognizant of that.

18 So, five years seems to, from what we can
19 tell, that it's -- it's relevant. We've also done an
20 initial DIF analysis, which is difficulty, importance,
21 and frequency, for each of the covered tasks. That is
22 something that we're certainly exploring in the B31.Q.

23 And it -- and it seems reasonable that, for the
24 majority of the tasks, that five years is not
25 unreasonable.

1 Now, what I added here for your
2 consideration, which I probably didn't need to because
3 it's already in the regulation, that should an operator
4 want to push the envelope beyond five years, they can
5 petition to the -- and that's just -- waive the
6 regulation -- the RSPA administrator and ask for a
7 finding or approval for extension of that interval.

8 The thought here is -- I included here is an
9 inspector would go out and would see the basis and
10 decide whether or not that's reasonable for up to the
11 five years. After the five years, an operator would be
12 forced to submit to our organization for that review.

13 Quite frankly, that's just a lot of burden,
14 but okay, if we have to do it, we have to do it.
15 There's a whole process. It involves the states and it
16 involves partnership with the states in this -- in this
17 review.

18 Just as a quick difference, the original is
19 open-ended, and as I said, the OQ inspectors do all the
20 interval reviews and their -- and their designation.
21 The difference is, we have a maximum interval and we
22 force the operator to really pull up justification
23 data, a good analysis, good performance information,
24 and so forth that would help us make a decision as to
25 where we could lift or ease some of that burden of

1 reevaluation.

2 Certainly, the person who sweeps along the
3 right of way and only has to recognize the issue of
4 blowing gas or smelling gas or a hazard there,
5 recognize abnormal operating conditions, that's --
6 maybe that's the only task that person has. Is it good
7 to have that person reviewed annually or, certainly,
8 within five years, or can that be stretched because
9 part of the retraining that most people do always
10 addresses AOCs in -- in most of the programs that we
11 have seen.

12 And as I said, this incorporates the federal
13 and state review. So, the question, I guess, or the
14 advice to all of you is, what -- what pros and cons
15 does the committee see between the original concept and
16 the conceptualized modification?

17 I have no problems with leaving it open-
18 ended. I'm very comfortable with our inspectional
19 staff. They've gained a lot of experience and insight,
20 and the protocols and criteria and standards certainly
21 have given them enough tools to analyze the programs
22 and pick up on things that look very suspicious. And
23 we certainly have the enforcement tools or compliance
24 tools, depending on how you look at it, to act on it.

25 But without influencing that too much, I will

1 open it up to the floor for that discussion.

2 CHAIRMAN KELLY: Thank you.

3 Committee members, any comments or questions?

4 Yes, Dr. Feigel?

5 DR. FEIGEL: My personal preference, based on
6 a lot of experience in similar areas in personnel
7 requalification, is to add some fixed endpoint in time
8 where you have to have -- have a requalification
9 program. However, that's contingent upon the means
10 that's used to requalify people. You can't -- if there
11 are options for how one requalifies a person based on
12 documented continued good performance, combinations of
13 that and testing and training, whatever, I would --
14 that's a good program.

15 If it's a fixed period coupled with a very
16 rigid means for requalification, I'd be much less
17 amenable to that position.

18 MR. KASTANAS: Can I address that?

19 CHAIRMAN KELLY: Yes.

20 MR. KASTANAS: That's a valid point. One
21 approach is, leave it open-ended. When B31.Q comes
22 into play, it has essentially the requirements that you
23 just talked about spelled out in there, then it would
24 be a standard that everybody would apply to. And we
25 could wait -- possibly wait until that time and then

1 redo this or add this interval along with the
2 incorporation of the National Consensus Standard. So
3 that's -- that's certainly an option to consider.

4 CHAIRMAN KELLY: Are there other comments or
5 questions?

6 Yes, Mr. Comstock?

7 MR. COMSTOCK: I'd like to thank Stan for the
8 clarification of the requalification versus evaluation
9 issue. I think that was something we were going to ask
10 to have clarified, and that seems to meet the needs for
11 us.

12 The five years modification seems reasonable
13 in this -- in this manner and it should meet the
14 requirements of most operators, at least those that
15 I've spoken to.

16 I do want to recognize Stan -- Stan's
17 efforts, along with state OPS and federal OPS being at
18 the table in these discussions, along with industry and
19 contractors and so on. It's a monumental task to go
20 through the standard development, and being associated
21 with it has been a good learning experience for me.

22 I'd also like to recognize Daron Moore. He's
23 done a yeoman's job in getting people together, getting
24 consensus on some of these issues, and moving this
25 process forward at a -- at a very rapid pace. And his

1 efforts certainly should be applauded.

2 I would like to ask Daron to come up to the
3 microphone, though, if he has anything additional to
4 add to the process.

5 CHAIRMAN KELLY: I'll give him some time in
6 just a moment.

7 MR. COMSTOCK: Thank you.

8 CHAIRMAN KELLY: Dr. Feigel?

9 DR. FEIGEL: Yeah. I'm not sure I understand
10 the dynamics of what's going on here. What we're
11 saying here is that we may propose a rulemaking prior
12 to the possible adoption of B31.Q on this five-year
13 limitation? Or -- five year, yeah, limitation.

14 MS. GERARD: The reason for bifurcating this
15 is a couple things. Number one, we have a pipeline --
16 a PSIA, a Pipeline Safety Improvement Act, requirement
17 with a December --

18 PARTICIPANT: 17th, 2002.

19 MS. GERARD: -- 17th, 2002?

20 PARTICIPANT: Oh, no, wait.

21 MS. GERARD: Three. '03. Last December, a
22 month ago, a deadline to modify the regulation on the
23 subject of notification of changes in the plan. And we
24 were going to couple that minor regulatory action with
25 this action in an attempt to address an NTSB concern

1 about ambiguity in our inspection process with the
2 regulation we have right this minute. So that's why we
3 were going to go ahead.

4 And we'd hoped to have the NPRM out and done
5 before this meeting, but present events -- it just
6 didn't happen. So, what we're trying to do is get as
7 much input from you as possible and as full a
8 discussion in person so that we can get an NPRM out and
9 potentially have our next meeting on this subject by
10 telephone and call for a vote on that NPRM as soon as,
11 you know, we have an opportunity to.

12 Our next meeting may not be until the fall.
13 So that's why we were going to take this action
14 separate from the later action on B31.Q.

15 DR. FEIGEL: Well, I guess my question, then,
16 is, would you contemplate the proposed rulemaking to
17 simply incorporate the sense of the sliding --

18 MS. GERARD: Yes.

19 DR. FEIGEL: -- as a modified concept and
20 leave the means to requalify undefined?

21 MR. KASTANAS: In which we don't specify the
22 means in the -- not currently, we don't define it.
23 What we use -- I guess we use the protocols and -- the
24 protocols to see where the operator has gone with this.
25 We -- we really haven't --

1 MS. GERARD: It's not discrepant.

2 MR. KASTANAS: Yeah.

3 MS. GERARD: It's not discrepant.

4 CHAIRMAN KELLY: So, at this point, then, OPS
5 is looking for the committee by consensus, or otherwise
6 if you're of such a mind, to indicate that the -- the
7 five-year interval is acceptable and something that
8 they should proceed with in putting out the NPRM, is
9 that --

10 MS. GERARD: That's right.

11 CHAIRMAN KELLY: Any further -- yes, Mr.
12 Thomas?

13 MR. THOMAS: Eric Thomas. My comment is
14 almost exactly Dr. Feigel's, and then I have a concern
15 about the five years as long as the basis for
16 qualification is reasonably doable.

17 So I -- the five years by itself is not a
18 problem.

19 MR. KASTANAS: And again, we're not going
20 down that road. We're waiting for the National
21 Consensus Standard to develop that final. You
22 certainly -- well, you have -- to that process and see
23 where that's going and then get a feel for what might
24 be the -- the requirements in getting there. That's
25 the best I can do at this point.

1 DR. FEIGEL: Well, to some extent, it
2 apparently is beyond our control. I appreciate OPS's
3 sense of urgency in the sense that you have a statutory
4 requirement to do this. It's just enforcing -- this
5 full well knowing that, in all real likelihood, within
6 a reasonable amount of time we're going to have a much
7 better forum to answer all this, hopefully, with the
8 adoption of B31.Q. It's just -- it's largely a timing
9 issue.

10 MS. GERARD: Right. The other requirement I
11 didn't mention is that we have a statutory deadline to
12 complete the inspection of all operators using the
13 standards we're using within three years of '02. And
14 so, we've got to do a round of inspections with the
15 best standard we can to comply with that as well. So
16 we're making this improvement, this adjustment, right
17 now to improve the basis for that first round of
18 inspections.

19 CHAIRMAN KELLY: Mr. Moore?

20 MR. MOORE: Thank you.

21 Stan, we're -- I'm pleased with what I've
22 seen here. It's good work. It reflects the committee
23 vote last July, of '03. It reflects discussions that
24 the trade associations had with OPS which were being
25 considered last summer, so well done.

1 Also, I'd like to recognize OPS's commitment
2 to the B31.Q process. There's an unprecedented part of
3 this going on. I'm talking about Standard 1162 from
4 yesterday, the Public Communication standard. Of the
5 32 voting members and of the 60 active participants and
6 the five so far B31.QBs, 10 of the voting members are
7 federal or state regulators. Representatives, some
8 contractors, but mostly the actual regulators
9 themselves. That's an unprecedented involvement by the
10 Office of Pipeline Safety.

11 MS. GERARD: And the states.

12 MR. MOORE: And the states. And we're
13 extremely pleased by that, and it shows the importance
14 of this and their active involvement. So we're pleased
15 with that.

16 Regarding the five years, this is a -- a
17 proposal made by industry last summer that went to RSPA
18 and OPS. Now we seem to be back toward five years.
19 Clearly, that's an agreement among the community.

20 I do respect Dr. Feigel's comments regarding
21 the methods for requalification, but I don't see that
22 right now being a big problem based on what OPS has
23 said and how they have reacted so far. Hopefully we'll
24 continue down that path.

25 Thank you, Stan.

1 MR. KASTANAS: Thank you, Daron.

2 CHAIRMAN KELLY: Further comments?

3 Yes, Mr. Nikolakakos?

4 MR. NIKOLAKAKOS: My question is about the
5 contractors qualifying -- requalifying their personnel.

6 As it stands now, the contractor or each company, each
7 person, will qualify the contractor's people. Is there
8 any consideration given to having, maybe, a company or
9 a national institution be qualifying those people and
10 be acceptable by all the companies?

11 MR. KASTANAS: Yes. What we're -- Daron can
12 give you more about it. We're looking at reciprocity.

13 We're looking at a national accreditation
14 organization. Obviously, I don't know how all these
15 get started nationally, but we're certainly at the
16 forefront of doing that.

17 Daron, if you want to add to it, that -- any
18 details that you feel --

19 MR. MOORE: Interesting comment, Steve. This
20 is something that we've been wrestling with in the
21 committee for a fairly short period of time, maybe two
22 months. So I'm not in a position to comment much, but
23 we are considering recommending coming out of the Q
24 committee having an accreditation association or
25 outfit, whatever you want to call it, that can assist

1 in verifying that programs meet the requirements of Q
2 of the national standard.

3 Furthermore, one of the main events that
4 we're trying to bring to fruition on the committee is
5 the concept of portability, where contracting personnel
6 can go between different operators and have a basis for
7 not having to requalify every single time for every
8 single operator.

9 This is a very large benefit we believe and
10 the committee believes that can come out of this
11 process that we've been unable to solve between
12 industry and OPS, or even within industry, in the past.

13 But we think we have the right players at the table
14 this time. With all the regulators, with the
15 contractors, with the labor unions, and the various
16 operators all at the same table we think we can solve
17 this problem for the first time.

18 CHAIRMAN KELLY: Dr. Feigel?

19 DR. FEIGEL: Yeah, I would just note that
20 we're not plowing new ground here. This is not at all
21 a precedent. There are, you know, longstanding and
22 very successful programs in place in both the pipeline,
23 chemical process piping, and with boilermaking and with
24 the transportability of welding qualifications. These
25 are very rigorous programs that have outside auditing

1 and participation of contractors and the labor unions.

2 And if you're not familiar with those, I would talk to
3 those folks. The template may be there with some
4 proper adjustment.

5 CHAIRMAN KELLY: Yes, Mr. Lemoff?

6 MR. LEMOFF: I'd just like to augment what
7 Dr. Feigel said. There are many programs. We operate,
8 for example, a program for certification of
9 firefighters and fire officers and so they can take
10 that certification if they move to different
11 departments. I'm not suggesting that we get involved
12 with this, but there are many organizations that do it.

13 I'm sure many of them would be interested in
14 discussing the possibility.

15 CHAIRMAN KELLY: Is it the consensus of the
16 -- the committee members, then, that this is a
17 reasonable concept for OPS to proceed with in terms of
18 publishing the five-year interval rule that was set
19 forth on Slide 4?

20 PARTICIPANTS: Yes.

21 CHAIRMAN KELLY: Thank you.

22 Thank you, Mr. Kastanas.

23 MR. KASTANAS: Thank you.

24 CHAIRMAN KELLY: Our next item is Pipeline
25 Operator Fatigue. Mr. Huriaux and Mr. Coy.

1 MR. HURIAUX: So, while they're getting set
2 up, I'll pass the handout out.

3 (Pause)

4 PARTICIPANT: (Off mike) -- that you'll come
5 out with this rule?

6 MS. GERARD: I hate to make commitments like
7 that. It might give Barb a heart attack.

8 (Laughter)

9 MS. GERARD: It's -- it's really our -- that
10 and the direct assessment rule that Buzz discussed
11 because their statutory deadlines are our next
12 priorities. Notwithstanding the drug issue.

13 (Pause)

14 MR. KIPP: I don't think I have a lot to go
15 through, Ms. Kelly. Once I get connected to the big
16 pack in the back, I'll almost be done.

17 CHAIRMAN KELLY: We've got time for that.

18 (Laughter)

19 CHAIRMAN KELLY: We're going to change the
20 agenda and ask that Mr. Kipp do his presentation, since
21 he has travel arrangements he needs to meet. And we
22 will take this item up.

23 Update: Common Ground Alliance - Update on Initiatives

24 Robert Kipp

25 MR. KIPP: Thank you, and thank you for

1 putting me on as quickly as possible. I appreciate it.

2 Whoops. The screen is not up.

3 (Pause)

4 MR. KIPP: I can handle that part.

5 We'll go through very quickly -- oh, wait a
6 sec. Let me hand out some of those wonderful gifts
7 from the CGA, funded by OPS in our grant.

8 (Pause)

9 MR. KIPP: We'll go through an introduction,
10 background, structure. I'm not sure how many of you
11 are familiar with the CGA. I'll go through that very
12 quickly. Maybe three minutes on -- on how we started.

13 Is the whole group familiar, Stacey, do you
14 know?

15 MS. GERARD: We have some new members.

16 MR. KIPP: Okay, okay. So you have a few new
17 members? I can probably take two minutes on it.

18 Okay. In 1997, '98, there was a need to --
19 to get all industry people together to come up with
20 some common best practices. The Office of Pipeline
21 Safety sponsored or introduced and organized a meeting
22 of 160 experts in Washington -- in Arlington, actually.
23 They came from 15 or 16 different stakeholder groups,
24 and in the process of one year, they developed 135 best
25 practices related to everyone that deals with the

1 underground infrastructure.

2 These were developed and finished in 1999.
3 They were published in a study of common ground best
4 practices, the One Call Study. It's a 261-page
5 document. And then, from there, they decided on a path
6 forward basis to create the Common Ground Alliance.

7 I was their first employee in July of 2001,
8 and from there, we began to or continued to grow in
9 effect, and you'll see where we are with respect to our
10 mandates and what the CGA is about.

11 The 160 experts came from these groups, both
12 industry, government, and professional associations.

13 And I mentioned, the CGA was created. Today
14 we have 1000 members, and growing. We were at 500 two
15 years ago, and with the process, and the need is there,
16 and we can see industry and government taking hand and
17 -- and getting organized and wanting to become part of
18 the CGA.

19 One thirty-two organizations. I think we
20 picked up our 27th sponsor yesterday up in New Jersey,
21 and we have a number of committees and, of course, our
22 board of now 15 members.

23 I like to say our staff is 300 people, which
24 always shocks a whole lot of people when I say that,
25 but only two of us are paid. Actually, two and a half.

1 The other 297 or 298 are all members that do
2 all the work. Everything I say, everything we do is
3 determined by our members, and that's very important.
4 That's why there's a CGA and in many circles it's so
5 widely respected, is because it's not an industry
6 group, it's not a government group, it's everyone
7 working hand in hand. And that's not easily done when
8 you get excavators and locators in the same room as
9 infrastructure owners and regulators and so on. But
10 they do do it, they work together, and they've been
11 able to accomplish an awful lot in a very short period
12 of time.

13 This is our current board. There hasn't been
14 much change, other than the -- the board agreed in
15 December to create an at-large seat for the American
16 Fence Association for a period of one year. And Al
17 Allison of North Carolina is that new director.

18 The American Fence Association represents
19 numerous fence companies across this country. They dig
20 120 million holes per year.

21 (Laughter)

22 MR. KIPP: A very, very substantial amount of
23 work is being done by that really unique excavator
24 group. And over the years, of course, the damages have
25 grown. They've gone from just cooper wires to now gas

1 and electric and fiber. And of course, there are more
2 and more lawyers involved. And they saw a need here
3 from both the safety standpoint and from a financial
4 standpoint to get involved.

5 And we're happy to have them on board. Very,
6 very large group, and probably at the end of the year,
7 all going well, this particular seat will become
8 permanent.

9 We had our annual meeting. Stacey spoke at
10 the meeting. It was great. We asked for her notes;
11 she had no notes. She spoke for 15 minutes. It was a
12 great speech, and the next time we're going to put a
13 recorder there so we can keep track of what she says.

14 MS. GERARD: I had notes.

15 MR. KIPP: Oh, we can't find them.

16 It was a great speech, it was a great
17 meeting, but to give you an idea, we sort of linked up
18 with the Damage Prevention Convention. At our annual
19 meeting on a Wednesday morning, we had 400 people
20 attend. A pretty substantial amount.

21 In the course of that week, every committee
22 met, and there were more than 250 attendees at all the
23 committee meetings. That's the various meetings
24 Tuesday, Wednesday, and Thursday.

25 So, it has really caught on. The people are

1 involved. They're working, and things are moving.

2 Accomplishments, quickly. We have received a
3 grant -- we've received, actually, two cooperative
4 agreements from the Office of Pipeline Safety dealing
5 with our website, educational campaign, data system,
6 publication of best practices, expansion of Regional
7 Partner Program. I'll talk to those very quickly. And
8 - and nine recommendations which we were working on
9 with respect to the NTSB, and we've forwarded seven of
10 those to -- to the Office of Pipeline Safety. There's
11 two awaiting response.

12 NTSB recommendations, very quickly. The
13 first one, P001, had to do with a best practice and it
14 had to do with 911 when there is a gas or oil leak or
15 other leaks. And that's the new best practice. You'll
16 find it in the version 1.0. And then, Part B to that
17 was what the excavator does when he does -- after he
18 calls 911.

19 There is currently an issue going on with
20 respect to damage, I believe, in Delaware last year.
21 There was a minor explosion. We've been dialoguing
22 with the NTSB on it, and the report is not out yet, but
23 this is one of the issues that came out as a result of
24 this particular incident in Delaware, which I'm sure
25 you'll read about soon, when the NTSB gets their

1 official report out. That one, I believe, was closed
2 acceptable.

3 The next one had to do with an explosion in
4 South Riding in 1990 -- well, maybe a 2000 explosion,
5 but the recommendation came out in '01. Very lengthy
6 debate amongst our members. It took two years to
7 resolve. It is the -- the wordiest best practice in
8 the documents you have before you. It had to satisfy
9 all 15 stakeholders, and as I mentioned, it took two
10 years to get those words agreed to by all of the
11 members. And the process works. The process works.

12 There was one hold out, and the holdout knew
13 they had a problem, and they said, let's find a
14 solution. And they worked and worked, and then,
15 finally, the 15 stakeholder groups put together this
16 document or these words that satisfied all those
17 stakeholder groups.

18 On 9716, 17, and 18, the San Juan, Puerto
19 Rico explosion. All three of those were responded to,
20 and they had about -- they had two documents totaling
21 about 100 pages. Our R & D committee put together the
22 response. And those were accepted by the NTSB and
23 closed out.

24 From the same NTSB report, San Juan, Puerto
25 Rico, we responded to 22 and 23. I don't believe that

1 they are yet closed by the NTSB. I'm not sure where it
2 sits with --

3 MR. SMITH: We're requesting closures very
4 soon.

5 MR. KIPP: On 22 and 23? Twenty-four will
6 take some time.

7 Oh, you're requesting closure on 24? No.

8 (Laughter)

9 MR. SMITH: Based on ongoing work in response
10 to it.

11 MR. KIPP: Okay, okay. We -- we're still
12 working on big parts of that.

13 9825 we received last year. That was Khyber
14 Pass. And basically, a dredging barge had moved from
15 one location to another, had requested a locate in
16 Khyber Pass from the Army Corps of Engineers, and they
17 located the 12-inch steel pipe 92 feet north of where
18 it actually was; the pipeline company located it 212
19 feet south of where it actually was; and the barge
20 located it exactly where it was.

21 (Laughter)

22 MR. KIPP: And thankfully, no one was hurt.

23 The interesting part is, when you get a group
24 of 15 stakeholder people working on these issues,
25 you're bringing in different kinds of solutions. On

1 this particular one, which was a gas pipeline issue, we
2 believe we'll have a recommendation very soon on it.
3 And one of the key people working on it is someone from
4 AT & T. He has a Ph.D. out of the AT & T labs who
5 think he has a solution on a telecom problem that he
6 has that would apply to this. So here's where, again,
7 the system tends to work when you bring people in from
8 different organizations and different industries.

9 Establishing three digit dialing. That was
10 part of the Pipeline Safety Improvement Act of 2002.
11 And I think -- okay. And the wording to that was --
12 that's what came out of the Pipeline Safety Improvement
13 Act of 2002. When I last left some of you folks in
14 October or November, we were awaiting an answer. We
15 still don't have an answer, but we think we're getting
16 pretty close.

17 A number of wonderful people wrote to Mr.
18 Powell, and Mr. Powell responded to Representative John
19 about a week and a half ago, two weeks ago. And in his
20 response, and I made sure I had the exact words so I
21 wouldn't misquote Mr. Powell.

22 That's the last paragraph of his Jan. 10
23 response, and as you can see at the bottom of that, he
24 says, "The commission will act as expeditiously as
25 possible to implement the three digit nationwide toll-

1 free telephone number for access to state one-call
2 notification systems."

3 So, his mind seems to be around the three
4 digits and not around the 10-digit, which had been one
5 of the issues coming out of NANSI and -- out of the
6 NANSI group. And I thank Commissioner Kelly for her
7 support on that one in some of the meetings that
8 occurred amongst the commissioners.

9 And we thank you for that. I understand that
10 you were very supportive. Appreciate it.

11 So, it looks like a three-digit number is
12 coming. I think he's pretty busy this week, from what
13 I'm reading in the newspaper.

14 (Laughter)

15 MR. KIPP: -- give us the answer today or
16 tomorrow.

17 Published Best Practice Version 1.0. You
18 have it in front of you. That's the first CGA 1.0. It
19 takes away all of the peripheral issues that were in
20 the original practice. It divides it into chapters.
21 It includes two of our new best practices. It's in CD
22 format and paper format. We wanted to put it in the
23 hands of some of the excavators and locators that could
24 carry it in their glove compartment or their briefcase
25 and -- and be able to manage it. So that's the new

1 document.

2 At the back of it we also note all of our
3 corporate members, and then on the back cover itself,
4 you have all of our sponsors.

5 Then, the Educational Committee. I wanted to
6 mention that we're going to meet tomorrow on it. They
7 have an educational campaign ready to kick off related
8 to the agricultural community.

9 Now, that could actually play as a public
10 service kind of thing -- it's ready. We have the 60-
11 second PSA which will be distributed to an awful lot of
12 the agricultural radio stations across the country. In
13 addition, there will be 70 local versions made of the
14 -- of the PSA so that we can name the state, name the
15 area, and put in the appropriate one-call number until
16 such time as we have the one number.

17 Well done by our educational folks. They're
18 finalizing it tomorrow at our meeting, and we'll have
19 that out.

20 We're launching a new website. It's launched
21 on the Dig Safely side. On the CGA side we'll be
22 launching it the first quarter or second quarter of
23 this year.

24 R & D. We talked about the P9716, 17, 18,
25 and I just wanted to put some of those words up that

1 Stacey was -- was wonderful to write to our board and
2 include those words that they were very well received
3 by the board members and by the committee.

4 The other big issue we've got is data. We've
5 developed a system in conjunction with the UNCC in
6 Colorado. This -- this Damage Information Reporting
7 Tool, as we now call it, is up and running. Colorado,
8 by state law, must provide and must tabulate all of
9 their damages, each and every one of the damages, to
10 the underground infrastructure and publish it on an
11 annual basis, publish these results.

12 When we made this presentation -- gave this
13 presentation in October to a group of government and
14 industry steering committee leaders at NAPSR, a number
15 of the people around the table committed to work with
16 us to get their states on board and to get them into
17 this system so we can now start to look at what we're
18 doing nationwide.

19 And Connecticut, again, was front and center.

20 We are now -- we've got the technical people working
21 together. My understanding is it's -- it's very, very,
22 very doable. There's just a couple minor things left
23 to do. And we will have all of the Connecticut data
24 uploaded into our system.

25 We thank you. We thank the people for the

1 support, and now we've got about six other states that
2 we're committed to work on, including Virginia,
3 Georgia, Minnesota, Oklahoma, and I forget the others.

4 MS. GERARD: Massachusetts.

5 MR. KIPP: Massachusetts and Missouri, I
6 believe. And I think, if we can get those states in by
7 year end, you're going to start to see an awful lot of
8 data come out of the system.

9 A lot of our companies are providing data
10 themselves. They're inputting the data. It's secure.
11 It's not accessible by others. So, from a competitive
12 basis, there's -- there's no concern there. But
13 they're extrapolating all sorts of phenomenal data and
14 statistics from this system. I'll show you two very
15 quickly.

16 System available November 1st. Here's what
17 came out of Colorado in 2002. And Colorado had 12,000
18 damages in 2002. Of the 12,000 damages, approximately
19 40 percent had not called before digging. That's 4800,
20 if my math is correct, which left 7200. And of those,
21 55 percent had been marked correctly and yet we still
22 had damage. Twenty-three percent, the facility was
23 marked incorrectly. And then you have other issues
24 there.

25 It -- it really shows that we have an awful

1 lot of work to do, both from a training and I believe
2 from a tools perspective. When -- when you're marking
3 that many inaccurately, it's not just a qualification
4 issue at that point. I'm starting to believe we've got
5 some issues that we really have to work towards
6 resolving.

7 So there's an awful lot of work there, and
8 Colorado were kind enough to share that with us.
9 They're working to fix some of their problems, and we
10 don't know that their problems are any worse, any
11 better, or the same as any other group. But that gives
12 you the order of magnitude.

13 We believe that there are approximately
14 400,000 damages per year: 20 to 30 percent gas, 50 to
15 60 percent communications, and the rest amongst the
16 other infrastructures.

17 The one-call centers take about 15 million
18 telephone calls per year, and another 7 million
19 requests either through the Internet or other means.
20 So -- and if 40 percent of the people aren't calling,
21 the numbers are just really quite large, and we've got
22 an awful lot of work to do.

23 That was just -- I like showing that one
24 because it always surprised me. The work being done
25 when these 12,000 damages occurred, 15 and a half

1 percent of the time they were doing landscaping work.
2 And that's interesting because we don't really have a
3 landscaping industry representative because they don't
4 consider themselves excavators. They're always dealing
5 with just the top. Add another six inches to the top,
6 and before you know it, it's a foot and a half of top.

7 (Laughter)

8 MR. KIPP: So that -- that's an issue we've
9 got to get to and fix.

10 Electric, 10.3 percent. We talked about
11 fencing, the AFA, 9.8 percent of the work. So, if you
12 think fencing and landscaping, which is really the
13 outdoorsy stuff, that's a quarter of the 12,000 damages
14 that occurred in Colorado.

15 CGA Partner Review. We were petitioned to
16 create regional CGAs, and we agreed, as long as two
17 conditions were met. One, you couldn't exclude anyone
18 from joining; and two, you had to work towards the
19 adoption of best practices, all the while realizing
20 that in some cases your state regulations may differ
21 from some of our best practices. And as long as you
22 did that, you could join.

23 And you didn't have to be state. You could
24 be one state. You could be four states together. You
25 could be five groups within a state, as we've seen

1 happen.

2 We thought we'd get a couple of petitions.
3 We're up to 19 partners, and of course, I've only got
4 18 listed, so -- before anybody catches that, I forget
5 which one I've forgotten. But these are 18 of the
6 partners.

7 They met on December 3rd at the Damage
8 Prevention Convention. They had a terrific meeting.
9 They're going to be included on our website. There's
10 an awful lot of information to be exchanged. They're
11 going to have follow-up conference calls, and they're
12 now starting to exchange ideas on how to grow their
13 regional memberships and how to get involved more with
14 some of the best practices.

15 One of the things that's come out of the best
16 practices, and I'm hearing more, too, from the call I
17 got yesterday, some of the states are looking more and
18 more at implementing these and making them law, which
19 we really didn't foresee at the beginning. And I can
20 tell you that one state -- and I think they're doing it
21 right. They have a series of state one-call laws that
22 they don't necessarily -- one group or another doesn't
23 believe in them. They believe that some of these state
24 one-call laws were unduly influenced by one group at
25 the time that they were passed, et cetera, et cetera.

1 And you probably heard by story whether it's one group
2 or another.

3 What they've decided to do is they brought
4 everybody to the table. Again, all the groups, those
5 that owned the infrastructure, those that worked on it,
6 the one-call centers. And they took out a best
7 practices, and they started meeting about a year and a
8 half ago. They meet bi-monthly. And they're going
9 through every best practice, practice by practice, and
10 seeing if they can accept it or if it should be
11 modified with respect to their particular state.

12 At the end of it, which is the end of this
13 year, the beginning of this year, they plan to present
14 it to their state legislature and say, this is what we
15 believe should be the state one-call laws. We all buy
16 into it. We all want you to pass this, and if we don't
17 adhere or comply with them, then you enforce them
18 accordingly.

19 So that's where one particular state is
20 heading. I got a call yesterday, and I think we're
21 going to see another one head in that same direction.

22 The good thing about that is that they're all
23 working locally, again, to bring this together. And
24 when you do that, there's no hidden agenda. It's an
25 awful lot easier for a politician to say, we buy into

1 it, when he knows or she knows that everyone that has
2 to do with these particular laws believe in them. So
3 that's -- that seems to be where we're heading with
4 some of these groups.

5 I talked about our website launch.

6 One-call systems, just very quickly. They
7 became part of the CGA last year. Their group of
8 members incorporate all of the one-call centers in the
9 United States, Canada, Australia -- which has four-
10 digit dialing, by the way, across Australia -- New
11 Zealand, and I think a couple of European groups.

12 Very important. The one-call systems really
13 is where everything sort of comes together and starts,
14 and we're working with them. They're a bit of a -- the
15 group is not yet working totally together. There's a
16 couple of factions within the group, and we're working
17 that through. And they understand that, and I think at
18 the end of the day, once we get the one-call systems
19 people working together within the CGA as a uniform
20 group, we'll -- we'll have a really strong, strong
21 force.

22 The APWA, September 2003. They had their
23 first meeting last year. I always like to show our
24 sponsors because without them we don't exist. And the
25 gold sponsors are up there. They give us \$50,000 a

1 year, and I can tell you that all the checks are in for
2 the gold sponsors and the silver sponsors for this
3 year. Silver sponsors gave us \$25,000. They're in.
4 And there's a few left to go on the -- on the bronze,
5 and we -- they give us \$10,000 a year. We certainly
6 appreciate everything they do.

7 We just received PSENG out of New Jersey, a
8 new sponsor as of yesterday.

9 And that's it. That's the quick update.
10 Thank you.

11 CHAIRMAN KELLY: Thank you, Bob Kipp.

12 And it's really apparent that I support the
13 mission and goals of -- of Common Ground Alliance. And
14 I think, as a relatively new organization, they've done
15 tremendous work in a short period of time.

16 Are there comments or questions?

17 MR. HARRIS: Can we get a copy of your
18 presentation, or is it on your website, something like
19 that?

20 MS. GERARD: Do you want to print that, or
21 can someone print that?

22 MR. KIPP: I'll send it to --

23 MS. WHETSEL: OPS --

24 MR. HARRIS: They're going to be posted?

25 MS. WHETSEL: They're going to be posted on

1 the OPS Advisory Committee website, and it'll also be
2 on the docket. Everything that's presented here will
3 go into the advisory committee docket.

4 CHAIRMAN KELLY: Thank you.

5 Any other comments?

6 Yes, Ms. Schelhaus.

7 MS. SCHELHAUS: For the DIRT system, is that
8 baby getting every incident relative to whether it's a
9 pipeline or infrastructure that's regulated or not, or
10 is there any criteria as to what is included, excluded?

11 MR. KIPP: In Colorado, which is the only one
12 where we're getting all of the data, by law the
13 infrastructure owners have to provide all of their
14 information to the one-call center on an annual basis.
15 So, I'm assuming that if they're adhering to the law,
16 that all of the damages are there.

17 In Connecticut, I'm not sure. It's the
18 commissioner that gathers. I think it's everything,
19 also.

20 CHAIRMAN KELLY: Whether -- yes.

21 MR. KIPP: And so we will have all of the
22 Connecticut damage data.

23 Now, what we've got to do is try and massage
24 that and put it in a bundle so we don't start coining
25 it one state versus another state. We've got to at

1 some point just say, this is how we're doing
2 nationally, and then each state, knowing what their own
3 results are, they can see how they're doing relative to
4 everyone else. And if they want to use some of the
5 information, then they make their own phone calls and
6 get that done. And I think that's how the system will
7 pick up.

8 We also get all of our -- many of our members
9 are putting in all of their damage data. And by doing
10 that, they all realize, particularly a gas -- the more
11 data they can access on a national basis, the better
12 they can see how they are doing relative to others and
13 where their specific problems are.

14 CHAIRMAN KELLY: Yes, Mr. Alvarado?

15 MR. ALVARADO: Bob, is there a possibility
16 that this system could be extended for offshore?

17 MR. KIPP: Yes. We're -- matter of fact,
18 it's a real easy system. It's a point-and-click
19 system. We're making some minor modifications now, and
20 there's going to be a bill back issued.

21 But the folks in Ontario and Quebec want to
22 use it, and the only difference we have is the postal
23 zip code issue. And we have to make a minor mod on
24 that to be able to use it. But everything else would
25 work accordingly.

1 MR. ALVARADO: In the Gulf of Mexico, there's
2 about 13,000 miles of pipelines --

3 MR. KIPP: Right.

4 MR. ALVARADO: -- and there's a lot of
5 traffic -- operations, emergency -- grids, that they
6 need to call a number when an emergency comes up to see
7 what's in the area. And we need -- there is a need for
8 that kind of system offshore for those scenarios.

9 MR. KIPP: Are you referring to a mapping
10 system now?

11 MR. ALVARADO: A location that somebody can
12 call and say, are there any hazards in this area that I
13 can drop an anchor.

14 MR. KIPP: That -- the DIRT system will do
15 that, but I'm not sure -- I don't know if anyone can
16 help me here with mapping in the Gulf of Mexico.

17 MR. ALVARADO: Well, the map is available.
18 Companies would have to provide the information --

19 MR. KIPP: Right.

20 MR. ALVARADO: -- offshore. But just
21 somebody that -- a number they can call in case of an
22 emergency.

23 CHAIRMAN KELLY: Mr. Boss.

24 MR. BOSS: Let me try to man the thing here.
25 I think what's going on, BLM and so on has a lot of

1 the mapping information, but there is not an equivalent
2 one-call system offshore. And there may be an
3 opportunity for some party to be involved in there to
4 provide that sort of service.

5 MS. GERARD: But there are states that go
6 offshore. Doesn't Louisiana --

7 MR. BOSS: No. No, they go offshore for --
8 so many miles offshore, and then they go into federal
9 waters. But there is an opportunity out there, and
10 some of your members might be interested in that sort
11 of project.

12 MR. ALVARADO: I think all the members are
13 participants. They all have pipelines offshore, and
14 they're the ones that are pushing the idea. So, maybe
15 I need to go to work on that.

16 MR. KIPP: It could happen, because one of
17 the things we're talking about on the one-call side is
18 -- I don't want to open up a can of worms, but we're
19 looking at dividing the country in seven regions. So
20 you could theoretically pick the region that
21 encompasses those states alongside the Gulf and maybe
22 there make a point of assessing it.

23 And we're looking at dividing the country
24 into those regions for Homeland Security issues, which
25 Stacey and I have met and talked about to see if we can

1 start getting a single point of contact for larger
2 masses. Rather than have 50 states, have maybe our --
3 the one-call systems aligned with DHS regions. And
4 that -- that might be doable at that point.

5 CHAIRMAN KELLY: Ms. Pearce?

6 MS. PEARCE: Thank you.

7 One opportunity for networking in a system
8 that you might work with and funnel your information to
9 is the Marine Exchange System. In Alaska, our Marine
10 Exchange is the reporting system, and they're very
11 closely tied to the Coast Guard and to the state. They
12 do have some maps actually up on their website for
13 shipping purposes and are held at the Marine Exchanges
14 in Puget Sound, in Alaska, and throughout the state, I
15 believe in San Francisco Bay, and I'm not sure about
16 the Gulf. But that might be an opportunity to share
17 information.

18 And I know that some of that mapping is
19 already available, along with an opportunity to have a
20 one-call system.

21 CHAIRMAN KELLY: Thank you.

22 Mr. Harris.

23 MR. HARRIS: Yes. The progress we've made is
24 really impressive, but I was looking -- all through the
25 presentation I was trying to find Texas. When you look

1 at the facilities that we represent, you know, a lot of
2 these facilities are in Texas. Could you kind of
3 characterize where you are and what progress you've
4 made in Texas?

5 MR. KIPP: They're very involved. Let's get
6 right down to -- it's a different group. It's the only
7 -- never mind the qualification.

8 (Laughter)

9 MR. KIPP: It's the only state that has three
10 one-call systems that are not geographically defined.
11 You could theoretically belong to one one-call center
12 on one side of the street and the person living next to
13 you belongs to a different one-call center. It -- it's
14 a fairly unique way of doing things.

15 That said, they -- they do have a very good
16 damage prevention group, mostly headed by the three
17 one-call people and the gas industry of Houston,
18 mostly. Reliant's involved, all of the big gas -- most
19 of our sponsors are involved. They're very active.
20 It's just more difficult to get our hands around it
21 because it's three one-call center issues.

22 I know that they've had some dialogue about
23 becoming a regional CGA, and I think they will get
24 there. They all want to. I made a presentation there
25 probably a year ago, and there were 95 people in the

1 room, which is as big as you can get in terms of
2 getting people wanting to be active.

3 Your excavation community wants it for a
4 variety of reasons. They -- they think they have a lot
5 to gain if they could get a regional CGA and get -- get
6 everyone involved in Texas. But it is just a little
7 more complicated because of the three one-call centers
8 and some of that division.

9 MS. GERARD: What would it take to put it
10 over the top, Bob? And for other people here who want
11 to be a spark plug for a regional CGA, who do they --
12 who would you suggest generically make good partners
13 for them to reach out to?

14 MR. KIPP: Like I mentioned, that NASFM board
15 meeting we had, a lot of the companies here really are
16 on the boards of these one-call centers and these
17 damage prevention groups -- utility groups. And they
18 can very, very easily influence which way those boards
19 go because they are the major providers of the funds to
20 those boards.

21 MS. GERARD: The farm bureaus. I know at the
22 board meeting there was some discussion about
23 involvement of the farm bureaus. Has there been any
24 progress with that?

25 MR. KIPP: No. On the farm side, that's one

1 of the discussions tomorrow, how we're going to address
2 it. We've got the PSAs ready to go; now, how are we
3 going to get out there; how are we going to get into
4 the community. We also talked a bit about private
5 water, and I've met with the private water people in
6 Washington. They are much, much larger than I ever
7 dreamt. And our proposal --

8 MS. GERARD: Washington, D.C.?

9 MR. KIPP: Washington State.

10 MS. GERARD: State, okay.

11 MR. KIPP: It was the Evergreen Rural Water
12 Association leader I met with, and he's going to take
13 the message back to the national group. They -- they
14 are extremely big, extremely large, and see if we can
15 get them on board, too. It's more a western issue than
16 it is here. There's not a lot of private water in the
17 east, but there's just tremendous numbers of pipes and
18 pipelines out west.

19 MS. GERARD: Is there anything more that
20 anybody on the committee could do to weigh in with the
21 SEC and Chairman Powell on the rulemaking on the three-
22 digit dialing?

23 MR. KIPP: If you see him, say, hey, where
24 are those three digits.

25 (Laughter)

1 MR. DRAKE: Many of us filed letters with the
2 SEC asking for three-digit dialing. If you haven't,
3 there is a form letter that's available, and I'd
4 encourage you to get a copy of that and submit it. It
5 counts. Every vote counts.

6 CHAIRMAN KELLY: Other comments or questions
7 from the committee?

8 MR. KIPP: That was the first time we
9 actually got them to -- received a response from Mr.
10 Powell, and the fact that he mentioned three digits in
11 there just -- even though it was at the end of a long,
12 long letter, we'll extract that and remind him of it
13 because it seems to be the way it's going.

14 CHAIRMAN KELLY: Any comments or questions
15 from the public?

16 (No response)

17 CHAIRMAN KELLY: Mr. Kipp, thank you very --
18 is there a question?

19 AUDIENCE MEMBER: (Off mike) I just wanted
20 to offer -- been working on the test materials issues.

21 MR. KIPP: Certainly. Thank you.

22 CHAIRMAN KELLY: Thank you, Mr. Kipp. I
23 think you'll make your plane.

24 MR. KIPP: Thanks.

25 CHAIRMAN KELLY: We appreciate it.

1 Mr. Huriaux, you may continue your
2 presentation.

3 Brief & Discuss: Pipeline Operator Fatigue

4 Richard Huriaux

5 MR. HURIAUX: Speaking of human factors, when
6 we turn on the lights, big one.

7 This part of the presentation today is about
8 our work with controller or operator fatigue. Just to
9 preface that a little bit, fatigue -- operator fatigue
10 or any other kind of fatigue on the part of workers
11 controlling the system is part of the whole human
12 factors universe, which of course includes the work
13 we've been doing on the operator qualification. It
14 includes very much the one-call and all the other best
15 practices that Bob Kipp was just talking about.

16 A great presentation. I know we all learned
17 a lot from that.

18 The operator fatigue is one component of
19 human factors, and -- thank you. See, another human
20 factor.

21 (Laughter)

22 MR. HURIAUX: It's almost lunchtime.

23 The control room fatigue and transportation
24 operator fatigue in general is a major safety concern
25 in the United States. There are at least 15 million

1 people in the United States alone that are working
2 rotating shifts or night shifts or on-call, a condition
3 which just invites fatigue.

4 Management is often in the transportation
5 business not really aware how much fatigue can affect
6 performance at 3:00 a.m. in the morning. Anyone who's
7 worked shifts or irregular schedules, as I have in past
8 years, can tell you that -- how tired you can get at
9 3:00 a.m. not because you haven't gotten enough sleep,
10 not because you're not trying to be alert, but because
11 it's 3:00 a.m. in the morning and we weren't made to
12 operate at 3:00 a.m. in the morning, unlike my cats,
13 who apparently are.

14 Now, how did we get into this, really? It
15 was, once again, an NTSB recommendation.

16 Well, before I get to that, fatigue isn't
17 just falling asleep. Fatigue is more a lack of
18 alertness, a lack of the ability to take in and process
19 information and take the correct action. So, falling
20 asleep is the smallest part of what we refer to as
21 fatigue.

22 I'm not going to belabor all this. It's in
23 the handouts, by the way. There are a lot of factors
24 that go into fatigue: ergonomics, disrupted work-rest
25 cycles, working conditions, all kinds of things which

1 have to be dealt with in the control room, or should be
2 dealt with in the control room situation.

3 I should also say, we have another project
4 going. Byron Coy is going to talk later about our
5 controller certification process, which has to do with
6 the qualifications and the modus operandi in pipeline
7 controllers, a long-term project we have going.

8 NTSB has given us two recommendations over
9 the years. The first one resulted from a liquid
10 accident in South Carolina, requiring us to assess the
11 safety risks of rotating shifts and how we can address
12 those fatigue issues.

13 These were their concerns. It's interesting;
14 there has never been an accident, I don't believe, that
15 -- where fatigue or operator fatigue was the -- cited
16 as the proximate cause of the accident. Fatigue is
17 more of a contributing cause. No one is going to
18 report they weren't alert. No manager is going to
19 report that their worker in the control room wasn't
20 alert and on the job. They were, but sometimes they
21 haven't been as alert as they should have been. And
22 NTSB felt that in this particular accident -- well,
23 they saw a need for substantive rules on operator
24 fatigue.

25 One example of operator fatigue is something

1 we've all experienced on a road like the New Jersey
2 Turnpike. It's 3:00 in the afternoon. Circadian
3 rhythms are at a low point, and you just realize you
4 can't remember the last mile. That's the lack of
5 alertness. That's a form of fatigue, and that can lead
6 to, of course, disasters in time.

7 We also had a recommendation which was part
8 of a recommendation in all of DOT having to do with
9 hours of service. Now, hours of service is
10 traditionally something you associate with truck
11 drivers and pilots, and those sorts of work, but they
12 did recommend to us that we take a closer look at hours
13 of service as a means of controlling fatigue. And they
14 made these points about how shift schedules in most
15 transportation industries really don't support workers
16 getting adequate -- adequate rest, don't support
17 minimizing fatigue.

18 There are lots of exceptions to that. There
19 are some pipeline companies who pay a lot of attention
20 to controller fatigue, many that haven't, and the same
21 is true in other transportation industries. So,
22 there's an increasing amount of pressure on this issue.

23 Now, just a little history before I get into
24 the pipeline-specific issues. All the other modes of
25 transportation have some kind of hours of service

1 regulations, except pipelines. And I would submit that
2 hours of service regulations as administered over the
3 many years in all these other forms of transportation
4 haven't solved the fatigue problem. We still have
5 fatigued truck drivers.

6 The FAA -- I just read an article where the
7 FAA is very concerned that pilots, even with the
8 attention to hours of service and -- and sleep and rest
9 and alcohol consumption that they for the pilots, still
10 are some of the most fatigued workers in the entire
11 transportation issue. Some pilots are actually more
12 fatigued than truck drivers. So, hours of service
13 isn't by itself a solution, and that's been pretty much
14 recognized by everybody.

15 Now, pipeline controllers work in an
16 environment -- often very high and low workloads, which
17 is -- which is very -- which is very tiring. I recall
18 in the Army -- somebody described being in the Army as
19 -- as months of boredom punctuated by minutes of panic,
20 and there's a lot of truth to that.

21 It's very hard to go from a control room
22 that's operating as they -- they do, just clicking
23 along in the middle of the night. Bam, there's an
24 emergency. Information starts flooding out of the
25 system, sometimes too much information. It's very hard

1 to go from a condition where you are alert to one where
2 you have to be super-alert and capable of processing
3 and taking that safety information.

4 We have shift rotations which can be designed
5 to minimize fatigue. Irregular work and rest patterns,
6 long work days, unscheduled extensions, unscheduled
7 calls to work, and so on.

8 These are the same problems you have in all
9 kinds of control operations: power plants, railroad
10 dispatching control centers, FAA control centers. The
11 same problem, really.

12 So, DOT as a whole, including us, obviously
13 needs to address some of these issues, including how do
14 we determine if there is a fatigue -- fatigue issue in
15 the pipeline industry and for controllers; how do we
16 address it; are there tools available; what's the
17 research and training; and so on.

18 Now, DOT as a whole developed what's called
19 the Human Factors Coordinating Committee which has been
20 meeting for several years. Myself and several other
21 people from RSPA are members of it and active in it.

22 As part of the handouts, there were two
23 publications of the Human Factors Coordinating
24 Committee describing their work and some of the --
25 they've been developing. It's, of course, an ongoing

1 effort.

2 Now, the -- this -- I won't read it out, but
3 there's a website where you can get more details on all
4 of this.

5 The DOT Human Factors Coordinating Committee
6 has pretty much focused on the fatigue issue, and it's
7 been developing certain tools for assessing fatigue,
8 managing fatigue, and also for distributing information
9 on sources about where -- where companies can get
10 information on fatigue and fatigue management.

11 Some of the products -- let me move on.
12 That's a slide that shouldn't have been in there.

13 One of the things we developed in the Human
14 Factors Coordinating Committee is what's called the
15 Designs Work Schedule Representation and Analysis
16 software, and that's to aid managers in developing
17 ergonomic, fatigue-minimizing work schedules.

18 There's also been a fatigue management
19 reference guide which essentially can be in with best
20 practices for fatigue management. This is an ongoing,
21 living document that, of course, continues to evolve.

22 There -- there's also been -- this is the
23 table of contents. We can skip it; you've got it.

24 We also developed the Fatigue Resource
25 Directory. Everything has to have a wonderful acronym,

1 although it's hard to beat "DIRT" for an acronym.

2 (Laughter)

3 MR. HURIAUX: The FRDY. "FRDY" sounds like a
4 horror movie, but it's actually --

5 (Laughter)

6 MR. HURIAUX: -- a way of accessing current
7 scientifically developed information on fatigue and
8 fatigue management.

9 In fatigue management, there's two parts.
10 There's the assessing it, knowing that there are
11 issues, and then there's the managing it, using the
12 various tools of scheduling, environment, and so on for
13 reducing it to a minimum. And these have all been
14 developed by the Human Factors Coordinating Committee.

15 We also -- Office of Pipeline Safety, as part
16 of its work to respond to the NTSB recommendations, has
17 been dealing with the Volpe Transportation Systems
18 Center in Cambridge, which is part of RSPA, at least as
19 part of our organization, at least until we get moved
20 in with the railroad house.

21 And we've been trying to take advantage of
22 some of the work Volpe -- the Volpe Center has been
23 doing, largely with railroads and airlines, on fatigue
24 management. And they've been active, of course, in the
25 Human Factors Coordinating Committee and in developing

1 some of the tools I just referred to.

2 And at this point, we have had Volpe, on our
3 behalf, try to do a general survey of fatigue issues in
4 the pipeline industry. There's not -- as you can
5 imagine, there's not a lot of information available.
6 There are specific individual companies doing some
7 work, a lot of companies not doing much work, a lot of
8 companies scheduling workers according to union
9 contracts and tradition and a lot of other ways. A lot
10 of bidding on schedules, which has been found in the
11 railroad business to be a very negative feature because
12 it enables people to work longer than they really
13 should be in a control operation.

14 So there -- it's all over the map, and so we
15 felt that, at this point, we might want to take some of
16 the tools that have been developed by the HFCC and,
17 working perhaps -- and we're asking your advice on this
18 -- perhaps forming some working groups with industry,
19 with labor, taking a look at whether some of these
20 tools might be applicable.

21 We are not proposing any rulemakings at this
22 point. Not proposing any rulemakings. We're merely --
23 this is new to us. We don't know how big an issue this
24 really is or should be for pipelines. We know it's an
25 issue for all kinds of controlling operations

1 generically, however.

2 And this is phase I. I've been talking with
3 Volpe about seeing how these tools might apply to the
4 pipelines and maybe doing a few very small skill style
5 testing of operation, of industry, and others. These
6 are brand new ideas here. And then, based on the
7 results of that, either say, well, there's no problems,
8 or go to a phase II down the road, which -- in which
9 fatigue management programs would be more thoroughly
10 evaluated in terms of the contribution they could make
11 to safety and efficiency in control operations.

12 So, at this point I'd really like to ask the
13 committee, and I'm not asking just for today but more
14 for any ideas anyone may have on what our approach
15 should be to this, any other tools we should be using,
16 any research that companies have done that could
17 contribute to this effort.

18 CHAIRMAN KELLY: Thank you.

19 Any questions or comments from committee
20 members?

21 MS. EPSTEIN: I guess I'm a little bit
22 confused, Richard, because on the slide that talks
23 about the hours of service regulations, you mention
24 that if those were instituted it would not solve
25 fatigue problems, but yet the other modes all have

1 those requirements. Do -- do they help solve fatigue
2 problems? And then, secondly and related, it does look
3 like the NTSB recommendation was to have -- to set
4 hours of service requirements. So, if OPS does not do
5 that, does that become a closed unsatisfactory
6 recommendation?

7 MR. HURIAUX: Well, two questions there.
8 I'll address the second one first.

9 No, we have not precluded any regulatory
10 actions, including hours of service regulations at this
11 point. We also have not determined that the best way
12 to respond to these recommendations would be a
13 regulation -- that is a regulation.

14 In regard to the first part of your question,
15 the reason I mentioned the other modes was not that
16 hours of service regulations have worked so well. The
17 literature doesn't contain much information that shows
18 that hours of service regulations by themselves
19 contribute that much to fatigue reduction.

20 The -- what happens before somebody goes to
21 work as an operator or a controller is -- is very
22 important. In fact, to a limited setting of eight
23 hours, or whatever it might be, the 24-hour period
24 doesn't necessarily mean the person got any sleep since
25 their last shift, which may have been the swing shift

1 the day before and now they're on day shift today.

2 So it isn't that. We're not rejecting hours
3 of service. We think that we need to take it beyond
4 what the NTSB recommended. We just don't see -- and
5 the members of the Human Factors Coordinating Committee
6 I think pretty much agree, hours of service doesn't
7 take us very far. We still have fatigued truck drivers
8 with plenty of hours of service regulations, for
9 example. We still have -- on shifts we have workers
10 who are working six on and six off day after endless
11 day. Tell me that's not fatiguing. It is.

12 So, we're not rejecting -- we're not
13 rejecting it out of hand. We're trying to get a
14 broader view of it and try to take the agenda forward
15 and beyond that.

16 MS. EPSTEIN: I guess I understand that it
17 doesn't solve everything, but I assume there's some
18 data about before and after, you know, how much of a
19 contribution those hours of service requirements have
20 made in reducing incidents.

21 MR. HURIAUX: Actually, I wish I had the
22 Volpe people here, but there's actually very little
23 information like that because a lot of these
24 regulations have been in place for a long time. Also,
25 some of these regulations are honored and they're

1 breached. The famous problem of truck -- truck driver
2 manifests and logs which have been on paper and are
3 widely -- well, I can say it. They're widely
4 falsified. My brother -- truck driver.

5 MS. GERARD: We don't need that on the
6 record.

7 (Laughter)

8 MR. HURIAUX: So, we're not rejecting those
9 ideas at all. We're just saying it has to be part of a
10 broader effort.

11 MR. HARRIS: I believe you've answered my
12 question. This applies to all rotating shifts in the
13 pipeline agencies?

14 MR. HURIAUX: Controllers. We're focusing on
15 control room operations, not the entire pipeline
16 industry.

17 MR. HARRIS: (Off mike) Okay. I guess you
18 didn't answer my question. For folks out on patrol --
19 and they operate on rotating schedules, also. And they
20 also have safety-sensitive jobs. So, if -- you might
21 want to broaden that scope.

22 MR. HURIAUX: I understand what you mean. I
23 mean, people stationed at compressor stations or pump
24 stations have certain control or operational
25 responsibilities --

1 MR. HARRIS: (Off mike) Yes. Some of these
2 facilities are very large -- report back to some
3 centralized facility. So --

4 MR. HURIAUX: I'd do that within the general
5 definition of operator-controller as distinguished
6 from, you know, maintenance personnel and construction
7 personnel and office personnel.

8 CHAIRMAN KELLY: Mr. Drake, and then Mr.
9 Willke.

10 MR. DRAKE: I thought DOT or -- we're moving
11 methodically here and not jumping right to a
12 rulemaking. I think you have a wonderful opportunity
13 right in front of you with another issue that you're
14 getting ready to engage many operators on with regard
15 to certification of the controllers.

16 You're going to be in there talking to these
17 operating companies about their practices -- about
18 their practices associated with qualification of their
19 personnel. I think it's a good opportunity to
20 piggyback this on it and talk to the operators about
21 their practices about keeping these people fresh and
22 focused and what their shifts are and how they rotate
23 and all those kinds of things, so you can get some data
24 gathering going on that may support this initiative
25 collaboratively with your certification program

1 initiative.

2 I would also encourage the DOT to try to
3 develop some sort of vehicle to communicate all of this
4 work that you've done to the industry just as an
5 advisory -- just some sort of vehicle that you could
6 get this information out so that people are aware of
7 all these studies that have been done and all these
8 human factors initiatives that have been done by the
9 OPS, and the DOT to a larger scale.

10 Just help people be aware that the
11 information is out there. It's not readily available.

12 MR. HURIAUX: That's really what we're
13 starting today. You're the first, really, to hear
14 about it. And the Human Factors Coordinating Committee
15 and the contractors have completed the first phase of
16 their work, so that's exactly where we are, and we will
17 be communicating more and touching base with the
18 association and the companies and others.

19 CHAIRMAN KELLY: Dr. Willke?

20 DR. WILLKE: Yeah. I'm not aware of
21 incidents that have been related to operator or
22 controller fatigue, although they may have occurred.
23 My question is, where did this NTSB recommendation come
24 from? Did it come from a particular incident that
25 related to fatigue?

1 MR. HURIAUX: Yes.

2 DR. WILLKE: Because it's a very specific
3 recommendation.

4 MR. HURIAUX: The first recommendation came
5 from an accident on a liquid line in Fort Schultz,
6 South Carolina, in which there were some questions
7 about the -- we'll say the efficacy of the operator's
8 performance in the control room.

9 It wasn't that NTSB -- and correct me if I'm
10 wrong. We have Cliff Zimmerman here from the NTSB. It
11 wasn't that that was considered the proximate cause of
12 the accident, but it appeared to be a contributing
13 factor to the accident.

14 Also, the second recommendation was part of a
15 -- resulted from a broad NTSB study they did in-house
16 on fatigue. It was a focus area for a year or two at
17 NTSB. And that was a very broad recommendation that
18 went to us as well as all the other modes of
19 transportation. So that's where they came from.

20 CHAIRMAN KELLY: Any comments or questions
21 from the audience? Or, Mr. Zimmerman, would you like
22 to say anything?

23 MR. ZIMMERMAN: No, I think he covered it.

24 CHAIRMAN KELLY: Yes, Ms. Schelhaus?

25 MS. SCHELHAUS: You didn't answer Lois's

1 question as to, okay, where does that leave the NTSB
2 recommendations if you're at this point still like this
3 far back and not planning to adopt hours of service.
4 What happens with that recommendation?

5 MR. HURIAUX: Well, we're going to very soon
6 now be sending NTSB an update on our response to these
7 recommendations essentially saying we're taking
8 alternative action and actually going beyond the
9 recommendations. And we're actually hoping that NTSB
10 will work with us in helping us to close the
11 recommendation based on this ongoing work, because this
12 work won't be done for years.

13 I mean, we really hesitate to do a regulation
14 -- doing a regulation when we really don't believe that
15 the pipeline controllers -- at least that hours of
16 service address the core alertness-fatigue issues.

17 Circadian rhythms and 24-hour operation are
18 the major problem. Everyone has -- virtually everyone,
19 I guess, has this experience in mid afternoon of having
20 a bit of a letdown in energy levels. And as you get
21 into the evening, your energy level comes up a little
22 bit. The same thing happens at 3:00 a.m. in the
23 morning, only worse.

24 And I can tell you when I worked shifts, and
25 this has been the experience of many shift workers, you

1 literally -- you sleep -- if you have a midnight shift,
2 you'd wake up at 11:00 or 10:00 and you get ready to go
3 into work. You're fully rested. Everything's great.
4 You're healthy. And at 3:00 a.m., you feel like you're
5 crawling out of the inside of a barrel. It's just the
6 way the human animal is made.

7 And -- but if you have the pipelines, power
8 plants, other control types of facilities, we have to
9 address these fatigue issues because mistakes get made
10 in the early morning hours. There's some evidence that
11 more mistakes get made at 3:00 in the afternoon and
12 3:00 in the morning than any other time of the day.
13 And this has been documented pretty well in other
14 transportation industries.

15 CHAIRMAN KELLY: Any further comments or
16 questions by committee members?

17 (No response)

18 CHAIRMAN KELLY: Thank you very much for that
19 presentation.

20 We will break for lunch, and our first item
21 on the agenda when we return will be Damage Prevention
22 with Jeff Wiese.

23 I'll give you an extra five minutes. Let's
24 come back at 1:15.

25

1 (Whereupon, the proceedings were adjourned
2 for lunch, to reconvene at 1:15 p.m., the same day.)
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1:15 p.m.

Update: Damage Prevention

MR. WIESE: Well, let's see. How to approach
Originally, my job was to warm up the table
app.

MR. WIESE: So, now, having had Bob Kipp
t of my thunder, I'm going to come behind and
weep-up.

So, I think they're doing great work. We continue to sustain that, but I think there are other fronts that we can continue to move forward.

1 So, what I thought I'd do here today is I'm
2 not going to wade very deeply into statistics because I
3 think we can all take issue with minutia and numbers.
4 I just wanted to relay some broad things, talk to you
5 about a few initiatives underway that I think relate to
6 damage prevention, and a few things that we're doing
7 inside.

8 I was going to end on the Common Ground
9 Alliance slide. That was a good set-up for Bob. But
10 be that as it may.

11 And I think, again, we can quibble a lot
12 about statistics if you will, but I think it's pretty
13 clear that excavation, mechanical damage, whatever you
14 want to call it, is the number one or number two cause
15 of pipeline failure by identified cause. Thanks to the
16 work that Roger Little and others have done, and you
17 all, really, working with the industry and others over
18 the past few years, we're going to start eliminating
19 "other" as one of our leading causes of pipeline
20 failure.

21 So, I think whether you want to quibble or
22 not, I think most of us will accept that it's number
23 one or two, and particularly causes a disproportionate
24 number of the high consequence incidents. This varies
25 between the sectors, whether it's hazardous liquid or

1 natural gas transmission or distribution, obviously,
2 based on the proximity to the -- but other lessons I
3 think we've learned out of all the trending and the
4 work that we've done, there are no easy solutions --
5 there is no single nor easy solution to stopping
6 excavation damage. It does require the shared
7 responsibility of lessons that first came out of the
8 Common Ground study.

9 But I think one of the other things, and it's
10 sort of how I want to tie it to some of the other
11 communications initiatives, when we went around talking
12 to some of the stakeholders who may not be the lead in
13 here but do have a constructive role, some of them were
14 unaware of, you know, things they can do.

15 I think Tucson -- Stacey went to Tucson, and
16 I did as well. We spoke with the city and the county,
17 and that was one of the things I heard them saying very
18 clearly. You know, what can we do. And I think that
19 was one of the areas we tried to serve back up to them,
20 that they had a role in it, you know, whether it's
21 forming regional partnerships or whatever, that they
22 clearly had a role to play in damage prevention.

23 This chart is one we've used in a couple of
24 sessions before. I apologize for the fact that it's
25 not updated through 2003. I actually just asked

1 yesterday and got the number. It was tentatively 78.
2 Our numbers don't firm up until, really, about the end
3 of February or in March.

4 But the point to be gotten out of this --
5 again, not quibbling with the individual data points --
6 is that while the miles of pipeline is fairly steadily
7 increasing and housing starts, which can be considered
8 a proxy for the kind of activities going on, excavation
9 activities around pipelines, is going up fairly
10 markedly, excavation damages have overall decreased.
11 Depending on the point of time you want to pick, this
12 one shows over 50 percent. Pick your periods that you
13 will. I think most of us would agree there's a general
14 downward decline in there.

15 Lots of reasons for that, but I think it's
16 probably learning, awareness, and involvement by a lot
17 of the stakeholders. Nonetheless, to come back to the
18 initial point that I was saying, that a
19 disproportionate share of the high consequence areas
20 are caused by mechanical damage, excavation damage.
21 There's a lot of work yet to be done, as Bob was
22 pointing out to you.

23 I'm going to make just a -- just quickly
24 touch on these points because I think they relate very
25 much to the broader field of damage prevention.

1 Now, I was going to -- fire marshals, but
2 I'll wait and see if they come in here.

3 RP 1162. Again, there are a lot of people in
4 the room who were involved in that initiative.
5 Clearly, a step up for operators in what they need to
6 do, communicating, how frequently, what method, what
7 content. Very much a step up in the requirements for
8 operators communicating to sort of the key
9 stakeholders.

10 We briefly touched -- I think Stacey did, and
11 Ted talked a little bit about the Transportation
12 Research Board's study on encroachment. I think it
13 also relates. It -- the goal of that study, after all
14 -- we have no authority in this area to prescribe land
15 use. That's a local matter. But I think where we can
16 provide help and assistance is by going to -- I think
17 Daron is here, isn't he?

18 Daron, we always use your smart guy theory.
19 Remember the smart guy theory?

20 You know, when you have a problem that seems
21 very difficult, you know, bring in the smart guys to
22 help here.

23 TRB really -- and Ted is on the committee,
24 and he's can certainly answer many of those questions
25 -- is the smart guy that we've gone to in this case,

1 and they've done good work so far. Tucson, I think --
2 actually, I don't think it was serendipitous that we
3 ended up in Tucson. I think it was connected to that
4 event and I think it played out very well. I sat in
5 that meeting with -- as did Ted, with the city and
6 county people, and I thought it was very good.

7 So, at the end of the day, that study will
8 hopefully come out with information that community
9 officials can look for either before, you know, if
10 we're lucky enough to engage them before events and get
11 them in the preventative end, but also in -- after an
12 event happens what can be done and what is their role.

13 They're still -- they're not back in yet, but
14 at any rate, I was going to have this -- there are
15 three people here from the National Association of
16 State Fire Marshals. It's another initiative we have
17 underway that we very much hope will help in the
18 broader field of damage prevention, although it clearly
19 has achieved other objectives for us as well.

20 Our primary objective there was to help
21 prepare community emergency responders to effectively,
22 but as importantly, to safely respond to pipeline
23 incidents. You know, many of us who have been in the
24 field for a while can tell you about incidents within
25 the past year or two years where firefighters are

1 either killed or injured seriously trying to defend
2 their community from some sort of a pipeline event. I
3 don't think any of us want that, and I think that's a
4 laudable goal in and of itself.

5 But thinking about having the opportunity of
6 training them and then providing information to them
7 about pipelines and the roles it plays in our community
8 and how they can engage I think will help lead to a lot
9 more active involvement with the community.

10 There is a task force that is just being
11 formed up by the fire marshals now. I'm just of
12 scanning to see if -- everyone who was going to be on
13 it -- well, now, I wasn't sure if you were on that one
14 or not. Community Awareness Task Force? No?

15 But that group is actually going to be
16 assigning this kind of information to the communities.
17 What is it that you can do; what are your roles; what
18 are your responsibilities; what do you need to know
19 about pipelines. And I think we all said at the end of
20 the day if we could have, you know, a community level,
21 have people who are watching excavation activity going
22 on along pipelines, you know, aware of what's going on,
23 maybe even asking for permits, you know, I think it
24 would be a laudable role.

25 I thought I'd just give you -- skim over

1 these really quickly.

2 A couple of other things that we're doing
3 really in and of ourselves, we have here the T21
4 program that many of you are familiar with. We have a
5 couple of grant programs. One is annually
6 appropriated. It's \$1 million a year. That largely
7 goes to the pipeline safety program offices for one-
8 call improvements.

9 We just recently, I want to say in October or
10 November, announced the final set of damage prevention
11 grants. We ended up with I think it was 26 different
12 grants to 18 different states to try to improve some
13 aspect of their damage -- state-wide damage prevention
14 programs, but it was tied again to the best practices
15 that you have in front of you.

16 This is the -- the next point is the one
17 where I'd love to, at the end of this, just come back
18 and ask for any advice you have now or in the future.
19 We're wide open to it and we'll be glad to talk with
20 you all if you want.

21 One of the many challenges that we have that
22 NTSB has put before us is to work to provide some of a
23 statewide damage prevention program evaluation. We've
24 grappled with this one for a little while, but I think
25 we're settling down on the notion of trying to describe

1 a broad set of program elements that, you know, a
2 statewide program might contain, and then allow states
3 to basically customize their program to their unique
4 situation. Every state has a different situation,
5 different set of laws, different set of entities.

6 And try to find the challenge -- you know,
7 really, where I ask for any advice you'd care to offer
8 on this would be on the, how do we create in this
9 meeting a positive force for change? We're not looking
10 for a score card to give people a score from one to 10.

11 We would like to try to highlight opportunities for
12 improving their program, and at the same time we do
13 that, come behind it and provide support and referral
14 where needed.

15 The one point I'd love to offer a slide which
16 I think ties very much to that providing support is we
17 have, as Stacey mentioned to you some time ago, brought
18 on our Community Assistance and Technical Services
19 people in each of the regional offices. Those folks
20 are very much key to trying to provide support to
21 states. That's their role.

22 We have been engaged in the Common Ground
23 Alliance. There's one of our CATS people on every CGA
24 committee. Heavily engaged. We've asked them to
25 prioritize forming regional partnerships with TBA.

1 The last thing I'll touch on really quickly,
2 research and development. Some of this stuff is just
3 coming to fruition. I know that Bob Smith covered a
4 little bit with you yesterday what was going on. All
5 I'll really say there is that it was a direct focus of
6 rounds 1 and 4 of our BAA process that we pick up bits
7 and pieces as we go. And we have allocated anywhere
8 between a third to a half at different points in time
9 of R & D spending for that.

10 So, with that said, I'm not really going to
11 touch this. This was the segue for Bob, and he really
12 kind of hammered that home, and I can't really do much
13 more, other than to say they've been very instrumental
14 to us in being able to work with them in that broad-
15 based coalition of people to solve the larger pipeline
16 problem. So we put that out.

17 We'd be glad to take any questions, and we
18 welcome your advice.

19 CHAIRMAN KELLY: Comments or questions from
20 the committee?

21 (No response)

22 CHAIRMAN KELLY: From members of the public?

23 (No response)

24 CHAIRMAN KELLY: Thank you so much.

25 MR. WIESE: Okay. Thank you.

1 CHAIRMAN KELLY: The next item is Stanley
2 Kastanas, Safety Order.

3 PARTICIPANT: What Stan doesn't know is that
4 I happen to have his credit card. Maybe he's out there
5 looking around for it. He left it on the table. Is
6 that what he is looking for?

7 (Laughter)

8 PARTICIPANT: He's probably desperately
9 running around out there.

10 CHAIRMAN KELLY: All right. Is Byron Coy
11 here? We can go to the Controller Certification.

12 PARTICIPANT: Yes, he's here.

13 (Pause)

14 MS. GERARD: Stan, do you have to go back
15 downtown?

16 MR. KASTANAS: No, no, no. That's okay. I
17 was arguing security with others.

18 Go ahead, Byron.

19 Brief & Discuss: Controller Certification Project

20 Byron Coy

21 MR. COY: I'd like to take a little bit of
22 your time this afternoon to talk about our Controller
23 Certification Project.

24 MS. GERARD: Byron, can you speak up a little
25 bit?

1 MR. COY: The Controller Certification
2 Project was initiated as a result of the Pipeline
3 Safety Improvement Act of 2002, and more specifically,
4 Section 13B of the Operator Qualification -- is
5 specifically the controller certification effort.

6 The Department had put a team together at the
7 end of the summer, maybe August I believe, of last
8 year. Fred Joyner is our project administrator. And
9 we have three regional people on the team: myself as
10 technical lead, Karen Butler from the central region,
11 Charlie -- the southwest, and we have Herb -- as a
12 support resource for us.

13 By chance, all four of us have a lot of
14 industry experience for the Department. I spent most
15 of my time in the liquid business. Karen was in LDCs
16 and transmission. Charlie was in LDCs and LNG
17 operations, and Herb's spent a lot of time in --

18 So, just by the way it worked out, I think
19 it's a great benefit to the committee to have all this
20 background.

21 The essence of what's required in 13B is to
22 develop tests and other requirements for certifying
23 qualifications of individuals, and this is specifically
24 targeted for those who use computer-based systems that
25 some would call SCATA to control the operation of the

1 pipelines.

2 The -- the largest effort and time-consuming
3 piece of this program is a pilot study to test and
4 evaluate utilities and methods to eventually make
5 recommendations of how one might assure the pipeline
6 controllers are adequately skilled and trained to be
7 appropriately placed in that hot seat.

8 Some of the key attributes in the early
9 goings of the project, which is -- won't end until '06,
10 we acknowledge the ongoing efforts and revisions to OQ
11 and to try to stay a little close to that because 13B
12 is a part of the OQ envelope in general. And
13 specifically, as a result of that, we're very
14 interested in the development and the eventual release
15 of B31.Q, which would clearly take care of at least a
16 portion of what we're charged with with our project.

17 We at this point are focused on process as
18 opposed to the individual. The thinking is that if an
19 operator has an adequately, thoroughly documented and
20 implemented process, it provides a vehicle for the
21 assurance that the controller is adequately skilled and
22 ought to be in the seat.

23 Some of the refinements in some of the early
24 going is that SCATA computers are not just used in
25 high-rise control centers in Houston and other large

1 cities, but computerized processes and SCATA equipment
2 is used in large compressor pump stations as well. So
3 there are -- there'll be more than -- more than a focus
4 in large operation centers being involved in the
5 possible recommendations when the project is over. It
6 also improves the control room facilities that will be
7 on the large LNG branches.

8 And like to other OQ requirements, if there
9 are technicians, SCATA programmers, et cetera, who
10 would be testing or making changes in the control
11 system and as a part of that process would be affecting
12 control of the pipelines, then they need to be under
13 the supervision of a controller -- direct supervision
14 -- or they would be pressed to have the current set
15 of abilities to be able to do that work without being
16 supervised.

17 Some of the major dents in the timeline of
18 our effort. After establishing the scope, through the
19 last quarter of '03 we went out and visited about 20
20 operators and some parallel industry people to get an
21 idea of what people are doing now, at least from an OQ
22 perspective, for their controller personnel. We tried
23 to make sure we saw a good cross section of people in
24 different industry segments, different parts of
25 geography, and we learned that there's a smorgasbord of

1 features, capabilities, and processes that people use
2 to validate that their controllers are adequately
3 skilled.

4 We were hoping to find more commonality as,
5 maybe, a way for us to focus our effort because
6 industry would have the perception that these were the
7 right kinds of processes to have in place, but they're
8 all over the map. And as far as drawing conclusions,
9 it's better to say that people have developed systems
10 based on what their needs have been or how they
11 perceive them. And we just have to take that into
12 consideration as we move forward.

13 One of the values of having this meeting at
14 this time for us is the establishment of what we call a
15 focus group. We're looking for input from the
16 committee as an adjunct group of folks that have an
17 interest and knowledge in this topic area that we could
18 draw upon through the course of the effort.

19 We will be identifying a few people through
20 industry associations, some public involvement. We
21 have an outstanding letter now with the NAPSR people at
22 this stage looking for a few folks to join us as well.

23 We will be using the focus group to help focus our
24 effort a bit; there are some issues that might be
25 overlooked otherwise.

1 Part of this focus group -- we would like to
2 establish a focus group and get together with them for
3 a first time late this month or perhaps early March.
4 So, if there are those of you out there that know of
5 someone or an entity you think should be a part of that
6 group, I'd like to know that.

7 One of the early parts of the focus group
8 effort will be to help refine what's been dubbed the
9 sphere of influence. To get an idea of all the factors
10 that might be involved in determining if the controller
11 is adequately skilled and trained, there's an --
12 environment of a lot of different factors that might be
13 employed or be important. We wanted to make sure that
14 we captured all those and talked about that sphere of
15 influence a little bit later.

16 Also, in this first quarter of '04, we'll be
17 structuring pilot programs, and the sphere of influence
18 will be instrumental in getting that done.

19 We're also expecting the NTSB to produce a
20 SCATA report from some survey work that they did in the
21 last year. The presumption is that that may influence
22 or refine or perhaps expand our scope a bit based on
23 the conclusions of their report.

24 Prior to instituting the pilots, we would
25 naturally post a "Federal Register" notice about the

1 five programs and what our expectations are. We'd be
2 looking for volunteers or perhaps some companies would
3 participate in the pilots.

4 In conjunction with that -- establish -- we'd
5 be having public workshops and speak at various
6 industry conferences to support our program and get the
7 word out about the value of the outcome.

8 The actual pilots probably won't start until
9 at least July, and they'll run through the end of '05.

10 And for about the next five quarters after that, we'll
11 be drawing conclusions from the pilots and preparing
12 information for OPS management review.

13 The Pipeline Safety Improvement Act requires
14 us, at the end of '06, to submit a final report and
15 recommendations to Congress. So, when this course of
16 work is over, there will not be any proposed rulemaking
17 except perhaps the report recommendations would suggest
18 some further action in that regard.

19 I mentioned that we're targeting this process
20 as a vehicle to determine that controllers are
21 adequately skilled and trained. So you might call
22 that, really, the process of certification. Operators
23 will be expected to provide training, environment,
24 procedures, systems, and especially -- authority for
25 the controllers to act, and the combination of those

1 things would hopefully create an environment that
2 allows the controller to succeed.

3 The best -- that controller out there doesn't
4 have the authority to act without calling someone, or
5 if the computer system is not as responsive as it
6 should be, they can't work in the control room and they
7 exercise the emergency generators because the fumes are
8 so bad, if the environment is not there, no controller
9 can succeed.

10 If there is a process out there that we would
11 be looking to certify as controller certification, it
12 has to be able to validate the systems that are in
13 place and the tests and procedures they use would have
14 to be validated in order to know -- to be able to make
15 the conclusion that certification is appropriate. So,
16 around that certification process, perhaps there would
17 be a way to nominate.

18 Then, the concept of the sphere of influence.

19 There are any number of things that would affect the
20 ability of the controller to succeed, but it's also --
21 as well, so somewhere around the process there's any
22 number of things that could influence their abilities
23 to succeed. I tried to make this graphical image to
24 try to convey that concept.

25 In order to make this a meaningful process,

1 we've defined that sphere into five quadrants.

2 (Laughter)

3 MR. COY: What's important here is that in
4 this approach we don't attempt to extract or exclude
5 any factor that someone might consider to be important
6 as influencing the controller's ability to succeed.
7 So, the individual factors weigh in somewhere around
8 this circle.

9 We've identified five what we call major
10 categories. Control room environment. This is the
11 physical environment. Is it a workable place; you
12 know, can they -- is the lighting appropriate; can you
13 see; the noise is not annoying.

14 And by the way, different categories might
15 end up being more important than others.

16 The yellow piece there, the physical --
17 physiological factors. The -- more like, you know,
18 their own abilities of sight and hearing. Fatigue will
19 be in this area.

20 In the green below we have the computer
21 systems, like the act requires. It says to use
22 computers to keep control of the pipeline, so we have
23 the SCATA and operational support pieces down there.

24 The blue part, operating emergency
25 procedures. They have to have instructions what to do,

1 what processes to use to react to certain conditions.

2 So we would expect they'd have to be in place.

3 And then, a training environment, that they
4 have to be introduced and trained about changes in the
5 system and knowledge about how the pipeline operates.

6 To take it a step further, one might ask,
7 well, we have an OQ program and B31.Q, when it is
8 eventually released, would adopt what the controller
9 certification task requires. And we've acknowledged
10 that the OQ process, B31.Q in particular, you know,
11 would add tremendous value and -- perhaps supportive of
12 the work we had to do.

13 But the OQ processes only cover two of the
14 five groupings that we have here. We expect that the
15 reformed OQ process, B31.Q, would not cause us to have
16 to do much work in those two of the five categories.
17 But the OQ process does not address the computer
18 support systems, the control room environment, perhaps
19 some of the physiological factors that controllers have
20 to deal with.

21 At the risk --

22 (Laughter)

23 MR. COY: These are examples of the kinds of
24 attributes that might be considered important. These
25 tend to be more descriptive. It's not intended that --

1 that all of these are specific topic areas of our
2 interest. It does not mean that there maybe aren't
3 others that are more important that aren't shown. It
4 may be that numbers of them could be combined into one
5 category. You see we have the fatigue issue,
6 physiological factors.

7 Physical limitations. You want to certify a
8 processor or controller who can do his -- do his job
9 right, and if he only has one hand and the job task
10 requires him to use a mouse and a keyboard at the same
11 time, the company would have to somehow provide an
12 environment that will allow the controller to succeed.

13 They have to be able to see and hear.

14 Work hours and work shifts are areas -- there
15 are issues about overtime. Perhaps there's a
16 degradation of their ability either from conditions or
17 age in general. Memory.

18 So, any of these factors could reasonably be
19 expected to be addressed in a program. One of the
20 early parts of the focus group will be to entertain
21 this sphere of influence and try to identify the areas
22 that we should be focusing on. Maybe some of these
23 should be moved off the circle or off the map for us.
24 So if we want to be able to have our work be defensible
25 so that later on if someone asks why did you not

1 consider a certain factor, you know, to be able to
2 explain why we placed it where we did or why is it set
3 aside.

4 You notice in the blue area for operating
5 emergency procedures, OQ specifically talks about AOCs.

6 We acknowledge that. What we would also like to see
7 in that area is that the controller has the ability and
8 responsibility assigned and -- AOCs to take corrective
9 measures.

10 MS. GERARD: Can you say what an AOC is for
11 the record?

12 MR. COY: It's an abnormal operating
13 condition. So, just the fact that they recognize an
14 AOC would be very important, but they also should know
15 how to react to threat conditions and have the
16 authority to do that.

17 Now, in the near term, as I mentioned in the
18 timeline, we'll be wanting to use the pilot program to
19 help start to structure what would be perhaps
20 appropriate to be in the certification program. One of
21 the factors we have to take into consideration is the
22 diversity of the operators we have out there. You
23 know, in addition to having gas, liquids, and LNG, we
24 also have in its most basic sense the large end and the
25 small end. We have gas companies out there with six

1 employees, and others with thousands.

2 At this early juncture, we don't think that
3 we can come up with a set of criteria that is a least
4 common denominator for the entire base because we end
5 up with superficial instructions and requirements. So
6 perhaps we end up with some differentiation between,
7 you know, product type or size of operator. You know,
8 we have large end, small end. We don't know what the
9 outcome will be, but we have to at least take into
10 consideration how to tackle this.

11 In the pilot program in general, we have to
12 figure out a way to evaluate the methodologies that are
13 being applied to the operators. You know, do the
14 requirements that they place on their own validation
15 program provide metrics that actually demonstrate that
16 they've added value or not; are their thresholds for
17 success appropriate. If they take a written test and
18 they have to score at least a 50 percent to pass, what
19 does that mean; what 50 percent do they not have to
20 know, or how do they accommodate missing that many
21 questions.

22 In this early process, we may find that there
23 are certain aspects or factors as it were that aren't
24 particularly being addressed by any of the people here
25 in our program. And as a result, perhaps there are

1 particular tasks that we need to have analyzed, and we
2 feel a need for R & D support in that area. That work
3 can probably be going along in tandem with the active
4 pilot programs.

5 A "Federal Register" notice would
6 characterize what we're trying to do and -- operator
7 selection criteria. It would probably be similar to
8 what was put in place a few years ago with the risk
9 management demonstration project.

10 But the criteria would have to define what
11 we'd want to accomplish so that when the operators were
12 eventually selected, we'd be able to substantiate, you
13 know, what choices we made and why certain people were
14 included and why some others were not.

15 Specifically, in the Pipeline Safety
16 Improvement Act, it calls for three operators, but
17 because of the diversity of the operators we have to
18 serve, three is not an adequate number. If there were
19 three only, would we pick large, medium, and small, or
20 would we pick gas, liquid, and LNG? So, we suspect
21 that it's going to be more than three operators
22 involved in the pilot program. There won't be 12.
23 That's unmanageable, but we think it's going to be more
24 than three.

25 Part of that selection criteria is, we want

1 to make sure we address a wide-ranging OQ process with
2 different ways to accomplish success. So we want to
3 make sure that we find different ways people are doing
4 things so that we eventually can come up with the right
5 setup criteria that we take forward in the
6 recommendation.

7 In consideration of those selections we have
8 in product, there's also a size issue. We visited a
9 rather small LDC company and talked about some of the
10 attributes we had interest in, and they were very
11 accommodating. At our meeting we -- many of the things
12 that we talked about would eventually come out in
13 requirement -- rule requirements and eventually into
14 the codes, they'd be out of business.

15 We want to look also at the -- history at
16 large and specifically operators that run the program,
17 the structure and sophistication of the interview
18 processes they have in place, the complexity of the
19 control system they're using, and to the extent that
20 they use pipeline simulators as a training tool and as
21 a testing vehicle.

22 There's also an opportunity for a lot of
23 third party involvement, perhaps in testing or
24 validation. Some believe that using the word
25 "certification" requires third party involvement. We

1 don't know the answer to that just yet.

2 We also want to make sure that the selection
3 of the operators addresses geographic coverage. We
4 wouldn't want to come out with recommendations and have
5 people be suspicious of the recommendations because all
6 the people in the pilot program were from Texas or east
7 of the Mississippi or that only gas companies were in
8 the pilot.

9 The key to success in this pilot program will
10 be to identify a broad range of methods to look at to
11 determine if the processes people are using actually
12 can validate the controller's ability to succeed. In
13 order to do that, we can make periodic visits, perhaps
14 in person or with teleconferencing on a periodic basis.

15 In the process of the pilots, we won't know
16 the answer up front, so as the pilots are being
17 conducted, it will be helping us refine the process.
18 Clearly, they would report the recommendations as they
19 start to develop.

20 We also would have an interest in attempting
21 to define uniform characteristics that would be more
22 universal to operators, but there may also be line-
23 specific techniques that people are applying for their
24 industry segment or perhaps for the size of operator
25 they happen to be.

1 And again, I've mentioned the metrics and our
2 success threshold. If one picks 70 percent, is that
3 the right success threshold to use, or why -- why did
4 you decide that an operator has 10 minutes to decide
5 how to react to a certain condition as being accurate.

6 We're going to spend a lot of time working on
7 the outcome of the pilots to determine how to combine
8 that information into a set of recommendations. We
9 also have to consider if recommendations would -- would
10 eventually become rulemaking and even future industry
11 code, perhaps a good way to implement these into some
12 sort of criteria so that if they -- sometimes --
13 inspection requirement, how would we determine whether
14 or not they satisfied the requirements that were put in
15 place.

16 And I can see that you're all very well
17 equipped now to be part of the focus group.

18 (Laughter)

19 CHAIRMAN KELLY: Thank you, Mr. Coy.

20 Any questions or comments from committee
21 members?

22 (No response)

23 CHAIRMAN KELLY: Members of the public?

24 (No response)

25 CHAIRMAN KELLY: Thank you very much.

1 I'm sorry. Mr. Comstock?

2 MR. COMSTOCK: No, I didn't do anything --

3 (Laughter)

4 MR. COMSTOCK: I apologize. I'll be quicker
5 next time.

6 Mr. Coy, I appreciate your comments on your
7 sensitivity to the small operators who run local
8 distribution systems around this country. This is a
9 big issue to them. And in certification of
10 controllers, I think we want to be careful about scope
11 criteria, that people who operate LDCs in a municipal
12 setting -- and I should say the ones that I know of. I
13 don't know if all 900-plus in APGA, but the ones that I
14 know of. They operate in a control center -- and I
15 apologize, but I'm going to -- on the microphone.

16 When they monitor the system and they look at
17 the system, they see warning signals that come through
18 the -- into the control center, and they may phone
19 somebody to go out and take a look at what the problem
20 is, or so on. They're technically not controlling the
21 system, and I think that's what you're looking at here,
22 is people who can -- and if I'm wrong, I gave you
23 clarification on that.

24 They're not able to operate valves on the
25 system, they're not able to push a button and raise or

1 lower pressures and those types of things, am I
2 correct?

3 MR. COY: We -- we studied specifically that
4 topic area. We divided the folks into three operating
5 regimes, as it were. One would be -- they're using --
6 they're already using a computer system as part of the
7 process. The first would be that they know that there
8 ought to be 25 pounds of pressure. If it goes to 27 or
9 -- or 22, they know they need to call Fred, and Fred --
10 Fred knows how to fix it. So they're deferring to Fred
11 to figure out what the problem is and fix the problem.

12 The second group would be, it's gone to 27
13 pounds or 22 pounds. They call Fred and say, just
14 Valve 27. So they in effect are telling Fred, they're
15 controlling Fred to change it. Fred doesn't know why
16 he's changing Valve 27, but he's been told to do that.
17 So in that regard, the controller is using Fred as a
18 vehicle of that control.

19 The third level would be, they see a pressure
20 change. Via keyboard they adjust the knob or some sort
21 of remote control.

22 So, the first category where they defer the
23 decision-making to Fred in the field, maybe they're not
24 really controlling the pipeline.

25 MR. COMSTOCK: I appreciate that

1 clarification.

2 The other point I'd like to make is, on Slide
3 5 you talked about SCATA programmers as a direct --
4 being under the direct supervision of controllers.
5 Generally, controllers are the operators of the system,
6 or they're Fred, or they're calling Fred, or something
7 like that. Programmers, though, are people from
8 another organization or another part of the
9 organization that come in and program the software into
10 that.

11 So, I don't know if you're going to be able
12 to get a controller to be an IT person to where they
13 can have direct supervision on how they program the
14 software that puts the flashing point up on the screen.

15 MR. COY: I acknowledge that. I may be able
16 to explain that a little better.

17 If the controller has a problem and he calls
18 the programmer and says, I put in something, it's not
19 right the way this is displayed. Then the programmer
20 does his or her job and makes the correction. He then
21 requires the controller to say, is this what you need
22 to me to do, is it working properly. The controller is
23 in charge of how it affects the operation of the
24 pipeline.

25 What we -- what we didn't want to happen is,

1 the controller says that he can't open the styles
2 properly, the programmer looks at that, he starts
3 exercising the valve as part of his maintenance work.
4 He's now affecting the pipeline. The controller needs
5 to be apprised and on top of what's going on in that
6 valve where -- where the programmer has -- the skill
7 and approved to operate the pipeline.

8 MR. COMSTOCK: Thank you. I appreciate that.

9 CHAIRMAN KELLY: Yes, Mr. Wunderlin?

10 MR. WUNDERLIN: Jim Wunderlin. I want to
11 follow up on some of Mike's comments, and I appreciate
12 the discussion on certification of controllers. I want
13 to say, certainly from my aspect of the industry, we
14 support the idea of having our operators qualified to
15 do their jobs, and I can see you've given a lot of
16 thought to the -- what they do, what the process is,
17 and the elements that surround their job and the
18 importance of that job.

19 I think one of the most important things that
20 I saw was that creating a focus group from -- from
21 industry to work with you on this process, and I think
22 that focus group will help bring this into reality, as
23 far as I'm concerned, what may work and what may not
24 work and how far we should go as far as, you know,
25 certifying programmers in the 100 different elements

1 that you brought in there.

2 I think it's real important that we're part
3 of that discussion and before we get down to the
4 rulemaking process or whatever, that we have input into
5 that, you know, to say that, you know, the decision-
6 making is going to be there in how we select operators,
7 you know, what their SAT scores were in high school, or
8 whatever it might be. We have to be careful how far we
9 -- we go into what the operator's responsibilities are.

10 And certainly, our first priority is safety.

11 We want to make sure that we don't overregulate the
12 process where our hands are tied in some decision.

13 CHAIRMAN KELLY: Are there any other
14 recommendations on how the focus group should be
15 comprised from committee members or from members of the
16 public?

17 MR. COY: I did put a number of those
18 individual elements onto that sphere there in hopes of
19 generating interest for the industry to participate. I
20 expect that will work.

21 CHAIRMAN KELLY: Any other comments?

22 (No response)

23 CHAIRMAN KELLY: Again, thank you -- oh, Dr.
24 Feigel?

25 DR. FEIGEL: One of your earlier slides -- I

1 just want to emphasize that it seems to me it's very
2 important to coordinate as much as possible what you're
3 doing with this focus group with the broader aspects of
4 operator qualifications and -- if at all possible, that
5 we come out with a fairly uniform protocol here. If
6 they need to make modifications that specifically
7 address what you're doing or vice versa, that's fine,
8 but let's -- let's come out with something that's
9 programmatically as uniform as possible, rather than a
10 lot of separate elements. I think there are a lot of
11 long-term advantages to that.

12 CHAIRMAN KELLY: Thank you, Mr. Coy.

13 MR. COY: Thank you.

14 CHAIRMAN KELLY: While Mr. Kastanas is
15 preparing his presentation, I'd like to mention that
16 Jeff Wiese had mentioned earlier that we have
17 representatives from the National Association of State
18 Fire Marshals here.

19 And if you'll be with us the balance of the
20 afternoon, what I'd like to do is introduce you at the
21 end of our agenda, and perhaps you can give us an
22 update on activities regarding communications and
23 training that you've undertaken with OPS.

24 Great. Thank you.

25 Yes?

1 MR. EASTMAN: I was trying to prepare my
2 comments. You were moving fast for me. Sorry about
3 that.

4 Alan Eastman, Pacific Gas and Electric
5 Company. I just wanted to ditto some of the concerns
6 that I heard. You know, I heard some things I'm a
7 little concerned -- I'm still concerned about scope on
8 this issue. I'm a little -- I'm knowledgeable about
9 the genesis of the project, and I was trying to follow
10 the schedule.

11 One concern I have is, is the schedule
12 sufficient to allow these focus groups to spend the
13 right time to ensure that we are focusing on the right
14 problem. I heard some things that tended to suggest
15 that this is -- could turn into an audit of operating
16 maintenance instructions, and that's a whole lot
17 different issue than looking at, do the controllers
18 have the knowledge, skills, and abilities that they
19 need, the basics, to do their job properly.

20 You know, all of our companies have operator
21 qualification programs, and a lot of us have simulators
22 and that sort of thing. I just want to be careful that
23 -- you know, it's a daunting task to take on, trying to
24 get in and verify that every operator knows how to run
25 that C6 board and that old reset compressor, you know,

1 and every person knows how to work on those.

2 I just heard a lot of concerns there, and I
3 think there needs to be sufficient time to allow that.

4 I realize there's a congressional mandate to -- to
5 attack this issue, but let's make sure we know what
6 issue we're attacking and let's make sure we come out
7 with something meaningful. And I, for one, would like
8 -- I'm happy to be part of that.

9 CHAIRMAN KELLY: Thank you.

10 MS. GERARD: You might have noticed from our
11 past history that we don't usually rush to judgment
12 just to make congressional deadlines. We'd rather --

13 (Laughter)

14 MS. GERARD: We'd rather build the quality in
15 and come up with something that we think addresses the
16 problem. And while we certainly are very focused on
17 meeting the deadline, you know, we're bringing this
18 information to you at the early stage in the project to
19 be able to get, you know, advice and input. And you
20 know, I doubt that there'd be any urgency to coming
21 forward with a product that we didn't feel had been
22 thoroughly digested by all of our stakeholders.

23 And we appreciate the offer for your help, as
24 you've helped on many other projects, Alan. Thank you.
25

1 Update: Safety Order: A Proactive Enforcement Tool

2 Stanley Kastanas

3 MR. KASTANAS: Thank you again.

4 Going to the primary side of our -- of our
5 enforcement group, I'm going to discuss with you this
6 afternoon at the formative stage, the beginning, not
7 rushing to judgment or anything, of developing
8 enforcement tools that will kind of bind us, kind of
9 bind regulators, kind of bind the operators so there's
10 some accountability of -- of what we're doing out
11 there, and so the general public can see clearly that
12 enforcement or compliance is really taking place.

13 Two of the things I'm going to discuss with
14 you today are safety orders and civil penalty matrix.
15 In either case, I'm going to state what -- and both of
16 these come out of -- predominantly out of the Pipeline
17 Safety Improvement Act of 2002 and initiatives that
18 that sponsored. Each one of these will have an
19 advisory that I'll ask all of you to give us guidance.

20 Why a safety order. Well, again, Section 7
21 of the Pipeline Safety Improvement Act says that we --
22 giving us a tool, giving us an opportunity to create a
23 mechanism by which we can address those safety issues
24 not immediately hazardous to persons or to property.
25 It's really trying to catch something before it evolves

1 into something that could create that type of damage,
2 that type of hurt.

3 It also gives us an opportunity to say that
4 we're proactive, both the operator and the regulator,
5 in getting to these issues.

6 Most of you know that safety-related
7 conditions is not really defined in any of the codes.
8 You get situations, and those situations pretty much
9 define the safety-related conditions.

10 What I've done here, between the 191 code,
11 which is the enforcement or I should say incident
12 reporting section of the regulation, and 195, which
13 somewhat mimics of it about how to report a safety-
14 related condition, these are some of the areas.

15 Corrosion, which turns out to be the most
16 reported safety-related condition that we get. Thank
17 God we -- on LNG and so forth we get none of those
18 issues. So that's -- that's pretty good.

19 Material defects in high-pressure pipe,
20 malfunction, operating error, and imminent hazard are
21 pretty much tied for some of the -- for pretty much
22 what we get safety-related reports from.

23 A safety-related report is an operator
24 discovering a situation, has kind of 10 days to figure
25 out what they can do, and resolve it. If they don't,

1 if they can't do it within that 10-day period, they
2 need to let us know what's going on and how they plan
3 to take care of it.

4 The safety order is really intended to take
5 care of these things, somewhat like a corrective action
6 order but not with the same -- similar intent but not
7 with the same force, I guess. It's trying to be less
8 adversarial but yet accountable.

9 So, in that sense, we're trying to come up
10 with where this would fit in. And this is kind of the
11 enforcement legal position of where a safety order
12 would fit in.

13 The demarcation line between these various
14 tools. LOC is letter of concern; warning letter;
15 notice -- notice of probable violation. RSI is request
16 for specific information. Safety order, with a dotted
17 line because it doesn't exist right now. CAO is a
18 corrective action order. And everything comes down to
19 pretty much a final order of resolution, what an
20 operator must do and what we expect to do.

21 So, a safety order fits in that enforceable
22 side that if they don't, if an operator doesn't do it,
23 we can take some kind of action: civil penalties,
24 amendments, whatever we need to do to make sure that
25 condition does not exasperate and get into something

1 more serious than anybody would love to see.

2 So, with that guidance that I've given you so
3 far, we're asking for the committee to identify what
4 you think. You've all had some experience with some
5 safety-related condition. What would you put up in
6 this?

7 We took a crack at it -- no pun intended --
8 (Laughter)

9 MR. KASTANAS: -- as far as what situations
10 could come up. These are from some of the regional
11 directors and so forth. Granted, some of these can
12 very well be violations. But here are some of the
13 things that we put up there.

14 Stress corrosion cracking is certainly
15 something that's -- that's really making a big screen
16 these days, and we're trying to get a handle on the
17 technology, how to identify it, all those things.
18 Workshops have been held. Jeff has held some of those
19 in Texas. We're certainly trying to get a good handle
20 on it and what to do about it.

21 So, I pose the question to the committee as
22 to, do you think these are good examples, or if these
23 are not good examples, what would you consider a
24 safety-related condition?

25 CHAIRMAN KELLY: Is this the end of your

1 presentation?

2 MR. KASTANAS: No.

3 CHAIRMAN KELLY: We'll come back to it.

4 MR. KASTANAS: Okay. I thought you would
5 want -- okay.

6 CHAIRMAN KELLY: They'll remember it.

7 Update: Reassessing and Restructuring the OPS Civil
8 Penalty Enforcement Program

9 Stanley Kastanas

10 MR. KASTANAS: Okay. The next portion of our
11 -- of our compliance and enforcement tools is to look
12 at the civil penalties that Congress seemed to feel are
13 necessary to get behavioral modification, whatever you
14 want to call it. You know, there are four times --
15 they've increased the daily violation rate four times,
16 from \$25,000 to \$100,000. It almost seems like what I
17 discovered in trying to find a home in Virginia.

18 The maximum civil penalty has doubled from a
19 half million to a million. I guess at this point, we
20 have to make an assessment as enforcers what would
21 constitute that.

22 Now, we do have in the enforcement section of
23 the regulation, 49 CFR 190, Section 225, these pretty
24 much seven categories, which somehow slipped over
25 there. I don't know how.

1 But this is the things that we would identify
2 in making assessments of -- of what constitutes a
3 significant civil penalty.

4 I have to tell you, culpability and gravity
5 certainly stand out as being something that would drive
6 a high penalty. In culpability, you know, not only did
7 it -- you decided to make a business decision and said,
8 you know, forget the -- forget doing the maintenance,
9 forget doing this, ignore this, and somebody gets hurt
10 and we discover that. I assure you, the consequences
11 are very grave.

12 These are -- these are the -- these are the
13 considerations that we take into it. What we hope to
14 do going forward is take this and build this into a
15 algorithm where we can put values to them. Not dollar
16 values, but weighted values so that it says what's
17 driving -- what would drive a civil penalty. It
18 probably will be more internal than external as far as
19 that's concerned.

20 Where we certainly would like your guidance
21 in this regard is, if you're looking at the civil
22 penalty matrix, what you would consider a large civil
23 penalty for a violation. That's \$100,000 day for a
24 violation. And if you have a series of violations that
25 come together in the aggregate of \$1 million.

1 So those are the two questions. What -- what
2 rises to -- to this, and on the safety order, what
3 constitutes a safety-related condition.

4 CHAIRMAN KELLY: Is that the end of the
5 presentation?

6 MR. KASTANAS: That's the end of the
7 presentation.

8 CHAIRMAN KELLY: All right. Then I'll
9 entertain discussion. We'll start with this slide, and
10 then we'll go back to Slide 5.

11 Dr. Feigel?

12 DR. FEIGEL: I've got a more basic question.
13 What -- what regulatory or enforcement gap are you
14 trying to fill with this new mechanism? It's not --
15 it's not the issues that you're trying to address, it's
16 your enforcement mechanism, and it's not clear to me
17 what you're unable to do today that this is going to
18 fulfill.

19 MR. KASTANAS: The corrective action order
20 takes care of things -- of an event that's already
21 happened. That's one tool that we have to deal with an
22 operator that has to repair a line and decided they
23 have to take something out of service to take care of
24 things, but that's an event. We're trying to be
25 proactive, and we don't have anything in place right

1 now -- at least, I'm not aware -- yes, Stacey?

2 MS. GERARD: Well, not only is it an event,
3 but it's an event that rises to the criteria of
4 hazardous. We thought that there may be events that
5 don't rise -- conditions that you call a condition but
6 it doesn't -- shouldn't have to meet the test of
7 hazardous.

8 DR. FEIGEL: Okay. So, my question is very
9 simple. I mean, it's a procedural mechanism. You're
10 saying that you don't have a mechanism -- clear
11 mechanism to address what you just described?

12 MS. GERARD: Exactly.

13 DR. FEIGEL: Okay. That's what I wanted to
14 ask. Thank you.

15 MS. GERARD: In order -- that Congress would
16 --

17 DR. FEIGEL: Okay. Thank you.

18 CHAIRMAN KELLY: Yes, Commissioner Showalter?

19 MS. SHOWALTER: You've got the right page up
20 for me.

21 MR. KASTANAS: Okay.

22 MS. SHOWALTER: I think those factors are
23 good factors, and considering those factors in
24 recommending or imposing a penalty is appropriate.

25 I would caution against trying to reduce

1 those factors to the formula with weighted amounts
2 because everything is a matter of degree. Those
3 factors are going to be, in any given situation,
4 juxtaposed with respect to each other in different
5 ways. Within each one there are matters of degree.

6 And at some point, your judgment about them
7 is irreducible as a judgment. It really isn't a number
8 three or a number four. And if you start making --
9 turning it into something with numbers, all that -- all
10 that really happens is you say to yourself, well, shall
11 I give this a three or a four. And -- and you can
12 invite arguments over, well, how -- did you give this a
13 three or a four?

14 It's -- I think my main point is, the
15 inspectors and enforcers and regulatory agencies should
16 not be ashamed or afraid to exercise judgments, and if
17 I were doing it, I'd -- I would tend to leave the list
18 more or less as it. There might be more -- something
19 more to say, but I was heartened to see that you put
20 the list up that way.

21 The other thing that's not on there is when
22 -- not the factors that go into a penalty, but when
23 is it that you make a finding of a violation versus no
24 finding of a violation, and then there are various
25 amounts. In my view, the most important thing is not

1 the amount of money, it's the finding of a violation.
2 And I'm not saying that should be done in all cases,
3 but my experience has been that companies in the
4 regulatory model -- or I used to be a prosecutor as
5 well -- people will do anything to avoid, you know,
6 being convicted or -- or admitting to a violation.

7 MR. KASTANAS: A -- strike.

8 MS. SHOWALTER: That's right.

9 MR. KASTANAS: The black eye.

10 MS. SHOWALTER: And at some point, if an
11 enforcement agency is not finding violations on things
12 that are clear violations with perhaps major
13 consequences, what does that say? It should be, in my
14 view, a little bit more like getting a speeding ticket.
15 It's not that bad. You were speeding; here's your
16 ticket; it goes on your record. You know, it's not the
17 worst thing in the world.

18 But if you -- if you regard that finding as
19 the worst thing, then both the agency and the company
20 start negotiating over all kinds of other things to
21 avoid that label. And it's -- it's an important label.
22 Sometimes, not always.

23 MR. KASTANAS: I'll respond.

24 CHAIRMAN KELLY: Please.

25 MR. KASTANAS: I -- I understand your point.

1 It's not that we're fearful of issuing a civil
2 penalty. That's not our problem, not that we have a
3 major problem. We're trying to streamline, trying to
4 be uniform. Where we make a judgment call, we'd like
5 to be fair. There's due process in all of this. It's
6 not listed up there, but there is due process.

7 Due process is, as you said, as a prosecutor,
8 you know, you give the defendant an opportunity to say,
9 gee, you didn't get this, I had it, I can show you
10 where I was right and you were wrong. And that's where
11 we balance what we probably said to you on the face of
12 what we first investigated, here's what we think might
13 be a civil penalty. Following up to due process and
14 other evidence that we bring in, it could be the
15 operator was right, had everything done, and we missed
16 it. Or, we were solid.

17 And the unfortunate part is, once we -- once
18 we tag a dollar amount, we can't change it, even though
19 we find evidence that says they were bad and they were
20 really bad, we can't -- we can't go up. You're only
21 allowed to go down, or start the process all over
22 again.

23 So, it's not afraid to go to judgment. We
24 certainly will make a judgment call. It's just time to
25 make it more uniform, more consistent on -- within our

1 five regions so that, you know, whatever happens up in
2 New England certainly happens the same way in Arizona,
3 okay. And that's really what we're trying to do.

4 And the weightedness is kind of putting some
5 science to it and trying -- trying to put more of the
6 objectivity there and less and less of the subjectivity
7 that goes along with making it.

8 It won't do it entirely, but that's -- that's
9 the concept that we had here. If it's a recommendation
10 that it's entirely -- should be left up to the -- the
11 region or the compliance officer in this case -- I also
12 act somewhat in that capacity -- to make those
13 decisions, so be it.

14 CHAIRMAN KELLY: I think Commissioner
15 Showalter's comments speak for themselves. They'll be
16 on the record, and it's something that should be taken
17 into account as you continue to pursue this.

18 Ms. Epstein?

19 MS. EPSTEIN: I think it would be helpful in
20 general to get some information -- some data about the
21 enforcement record of OPS so we can sort of see where
22 OPS stands in comparison to, maybe, other agencies. So
23 it's a little -- I'm feeling a little bit like our
24 assessment here is being done in a vacuum.

25 I've had a lot of experience working with EPA

1 and Clean Water Act enforcement, and there is an
2 enforcement policy in place. And I know sometimes --
3 there is a public comment on certain enforcement
4 actions. That's one point I wanted to make here,
5 where, for example, EPA might propose a penalty and we,
6 through publicly available data, said you didn't count
7 all the violations. That went back to EPA, and then
8 there's a new calculation of the penalty.

9 One of the factors that EPA does use is the
10 dollars saved by the industry by not complying, which
11 is a way of leveling the playing field. I didn't see
12 that up there.

13 MR. KASTANAS: It doesn't show up -- there is
14 more things to that. This is the -- part of getting
15 the matrix down to a more detailed level is looking at
16 things like that.

17 MS. EPSTEIN: Are you envisioning development
18 of an enforcement policy paper basically as guidance to
19 those --

20 MR. KASTANAS: For public -- I don't know.
21 I'm not -- certainly, internally. As to how it goes
22 public, I don't know. I guess I'd prefer to call on
23 Stacey and Barbara as to what we can and cannot do in
24 that regard.

25 In other words, the speeding ticket, you

1 know. It's clear. You can say, here it is, here's
2 what you pay when you do it. I don't think it's that
3 clear, or maybe it's not even allowed. But I guess --

4 MS. EPSTEIN: It is a guidance document that
5 would lay out for the industry and the public how you
6 all were coming up with the calculations. The specific
7 calculations in a particular case, that most likely is
8 not public to anybody but the agency.

9 MR. KASTANAS: Oh, for sure, in that regard.

10 MS. GERARD: I anticipated it being some sort
11 of a published document.

12 MS. BETSOCK: (Off mike) Yeah. That would
13 be correct. That is standard practice when there is --
14 when there is an enforcement policy that talks about --

15 CHAIRMAN KELLY: So this is -- we assume this
16 is a preliminary discussion, that you'll have more
17 detailed information to present to us at some point in
18 the future?

19 MR. KASTANAS: Yes. But it certainly would
20 help me and others, what do you feel rises to four
21 times the violation level, that maybe some of you have
22 had experience with --

23 MS. EPSTEIN: And then I -- I did want to
24 comment that as you try to emphasize that there's some
25 sort of consistency in penalty development, I wasn't

1 certain how ability to pay and ability to continue
2 business, which are both similar -- similar measures in
3 a lot of respects, but that is going to mean you'll do
4 different sort of penalties depending on the size and
5 ability to pay. And that is conflicting with the
6 objective of trying to get consistency.

7 MR. KASTANAS: That is in the regulation.
8 That is -- is in the regulation. It also --

9 MS. EPSTEIN: In the regulation?

10 MR. KASTANAS: In 190. If you go to 49 CFR
11 190, you'll see those factors in there.

12 MS. EPSTEIN: So, in the current -- right.

13 MR. KASTANAS: In the current regulation.

14 MS. EPSTEIN: Right. Which now -- is that
15 going to change, or what's the status?

16 MR. KASTANAS: No, I'm just telling you, this
17 is our baseline. This is going to expand as we develop
18 an enforcement policy with civil penalty assessment and
19 try to streamline and make that much more uniform.
20 These factors, when we start here, what other factors
21 should be included in here, or are there subsets of
22 each one of these that we should consider as we develop
23 a number, a civil penalty number that goes with it.

24 Ability to pay, ability to continue business,
25 we have to be sensitive to small businesses and so

1 forth. Not to say that they don't belong and we
2 shouldn't take any action. The whole point of it is
3 the money doesn't come to us. OPS, RSPA, DOT does not
4 benefit out of that money. It doesn't support Jeff's R
5 & D programs. It doesn't --

6 (Laughter)

7 MS. GERARD: Try though he may.

8 (Laughter)

9 MR. KASTANAS: We gain nothing from it. It's
10 not -- we don't have an incentive, let's say, to make
11 money on this. It's not -- EPA -- well, OSHA
12 certainly, in terms -- had that as one of their -- at
13 one time, that they --

14 MS. EPSTEIN: EPA --

15 MR. KASTANAS: Sorry?

16 MS. EPSTEIN: EPA doesn't.

17 MR. KASTANAS: No, OSHA.

18 MS. EPSTEIN: Right.

19 MR. KASTANAS: Okay. But the point of the
20 matter here is to make a change. That's why the
21 evaluation, is the operator truly culpable or is it
22 truly a misjudgment, you know, those are the balances
23 that we have to weigh.

24 All right. Is the record a good record.
25 Have they been compliant in everything that they've

1 done, or are they repeat offenders.

2 MS. EPSTEIN: I guess I was just raising that
3 possibly so that OPS could relook at those two factors
4 because --

5 MR. KASTANAS: Oh, sure.

6 MS. EPSTEIN: -- you know, they are in
7 conflict with the consistency objective.

8 And then last point I wanted to raise is that
9 EPA has a supplemental environmental project as part of
10 their penalty development in certain cases, which is a
11 way -- another strategy of having some sort of
12 remediation for deficiencies. And that may be
13 something else that OPS wants to consider.

14 If there is ultimately some sort of penalty
15 being levied, you know, you can send it to the Federal
16 Treasury or you can spend it locally to some sort of
17 project that addresses the fact that there were some
18 problems. So that's a broader policy question that
19 would be good to think about.

20 CHAIRMAN KELLY: Ms. Hamsher?

21 MS. HAMSHER: Can I go back to the safety
22 order? Maybe I just need to better understand this,
23 but are you proposing under Part 190 you are going to
24 add an enforcement mechanism that goes above the
25 current compliance orders, civil penalty, criminal

1 penalty, specific --

2 And if you're not proposing to add that to
3 190, going back to something that Marilyn Showalter
4 said, as an operator that does get concerned for the
5 reasons you stated about having a black mark on our
6 record, I'm concerned about the lack of due process.
7 If there is a safety order that's issued, it's on the
8 OPS website. Good people with well intentions
9 sometimes disagree about issues, and there's no due
10 process for the company to say, we're not sure we're
11 agreeing with this safety order, or whatever it is.

12 I'm a little concerned about using that as a
13 mechanism. There's just -- it sounds like a lot of
14 discretion about what an inspector will believe is
15 signage or an OQ issue or a welding procedure that
16 isn't immediately hazardous but is something of --
17 perhaps mutual concern that we're going to work on, but
18 something on the record as a safety order elevates it
19 to company reputation and all that bit that needs to be
20 justified by a process to challenge.

21 CHAIRMAN KELLY: Before you respond, Ms.
22 Showalter?

23 MS. SHOWALTER: (Off mike)

24 MS. GERARD: There were a number of things
25 that were behind this provision, and one of them was

1 the GAO's investigation of us in the year 2000, in
2 which they found that activities in the OPS regions
3 were resulting in agreements between companies and
4 operators to do things in this general area by
5 agreement. It was -- there were letters that were
6 written between OPS and the company, but they were not
7 found to be enforceable letters.

8 And we have problems with the fact that we
9 thought that the outcome of these activities yielded a
10 lot of safety improvements which we thought were very
11 important for the overall well being of the pipeline
12 system, yet we didn't have any way to account for them
13 in a way that our overseers recognized.

14 And I believe the Congress got wind of this
15 problem and wanted to find a way that we could account
16 for these in a way that was enforceable.

17 But my understanding of this was that the
18 actions being taken were agreed upon between the
19 company and the operator. There wouldn't be anything
20 in this order that wasn't agreed upon by the operator
21 as being -- it would be agreed with by the operator as
22 being a beneficial mitigative measure to take for
23 safety reasons, but we were going to track it. And if
24 at some point the operator decided that they didn't
25 agree and they didn't want to follow through with the

1 plan, then the status -- the issue would leave this
2 category of actionable item to move into some other
3 type of format in which there would be due process.

4 We believe that, as a result of all the
5 additional assessments and investigation work that's
6 going on, that we're learning a lot and that we're
7 seeing things that might be in the precursor category
8 or early indications of problems that we wanted to work
9 with the operator to correct and which the operator
10 wanted to correct.

11 And in the 1995 to 2000 environment, there
12 were a lot of initiatives in this area which were
13 basically under the oversight radar, went under it, and
14 nobody acknowledged that this work was going on. And
15 we are, to a large extent, trying to correct that
16 problem.

17 MR. KASTANAS: So essentially, the safety
18 order will act as not really a black eye. It really
19 confirms that you have a safety-related condition and
20 it obligates you and -- it obligates you to fix
21 whatever you agree has to be fixed. It obligates the
22 regulators to follow you and make sure you get it
23 fixed.

24 MS. HAMSHER: My only recommendation for
25 consideration -- not that I defend the company --

1 MR. KASTANAS: No --

2 MS. HAMSHER: -- those things can be used.
3 It's the name that needs to be changed. It has an aura
4 of a safety order that's a one-way situation. And I
5 can't agree with you more that it's a mutually
6 constructive resolution to issues. I think --

7 MS. GERARD: Maybe how we introduce it --

8 MS. HAMSHER: -- it's a great, constructive
9 way to go. However, sometimes those types of things,
10 particularly as you improve your website and add more
11 and more transparency to the public, can be viewed a
12 lot differently by others not involved in the same
13 history about what --

14 MS. GERARD: Well, if we package it and
15 convey it in the right context, perhaps the aura would
16 change.

17 CHAIRMAN KELLY: Dr. Feigel?

18 DR. FEIGEL: I'm having a little trouble
19 grasping how the tenor of this discussion over the last
20 five minutes or so jives with the fact that there can
21 be pretty substantial civil penalty actions --

22 MS. GERARD: No, no, civil penalties. These
23 are not attached. These -- these are two different
24 initiatives where Stan went from A to B without a
25 hiccup. We're only talking about A here.

1 (Laughter)

2 MS. GERARD: But we were not allowed to give
3 you a hiccup.

4 But the idea for this was, this was really a
5 -- an agreement between the operator and the agency to
6 undertake this plan, and it's not --

7 DR. FEIGEL: I misunderstood. Sorry.

8 MR. KASTANAS: And the only time a civil
9 penalty -- and that's why you have this spectrum --
10 would come into play is, we have this agreement, you
11 didn't do it. It's the same as telling us you're not
12 responding. That's it. Then we go to --

13 CHAIRMAN KELLY: Dr. Willke, and then Mr.
14 Drake.

15 DR. WILLKE: I want to address the civil
16 penalty matrix. It has sort of the aura of sentencing
17 guidelines.

18 (Laughter)

19 DR. WILLKE: And I'm wondering, unless we're
20 required by law to address the -- the language in the
21 matrix, if that couldn't also be changed, maybe to the
22 same -- the other.

23 It's also a fixed system in which you go from
24 Column A and Row B to find some fixed amount. Lois is
25 on the right track, I think, with -- with the

1 sentencing guidelines or policy guidelines.

2 MS. GERARD: It is to me a policy guideline.

3 DR. WILLKE: Right.

4 MS. GERARD: Maybe the matrix is a little --

5 DR. WILLKE: I'm only suggesting that the
6 matrix is just a little bit too objective a system, but
7 there is a lot of subjectivity to it.

8 I would suggest that policy guidance would
9 have in it something about what constitutes a scale,
10 just like you've got here in terms of what is more
11 culpable than other events. And I think you could
12 describe that in a policy guidance and leave a lot of
13 the subjectivity --

14 MS. GERARD: We were actually hoping some of
15 you would suggest some thinking along the lines of more
16 culpable -- that's why Stan, you know, wanted to pause
17 for input there.

18 CHAIRMAN KELLY: Mr. Drake, and then Ms.
19 Showalter.

20 MR. DRAKE: This is Andy Drake. I just
21 remember a year ago when we got around the Alamo and we
22 started talking about something called a narrative.
23 That seemed like a half-cooked idea at the time. And I
24 don't know if this is half-cooked, fully cooked, or
25 what it is, but it seems like we're struggling to

1 communicate. And it's hard to imagine -- when I see
2 this spectrum of tools that we already have that we
3 don't have a way to talk to each other about this.

4 Just the way you just described how this
5 works doesn't seem like it satisfies Ms. Hamsher's
6 comment fundamentally. They're concerned that you
7 don't have a vehicle to enforce against us when we take
8 action in the sense of I heard you say that you're not
9 intending this to be --

10 MS. GERARD: A penalty.

11 MR. DRAKE: But that if the operator -- this
12 is a cooperative event, that the operator and the
13 regulator agree to an action plan, and as long as we
14 agree to the action plan, then that's when we use this
15 vehicle. But the minute we don't agree to do that,
16 then we switch to another tool. That means we use one
17 of these other tools we already have to satisfy the
18 GAO's issue.

19 I guess I'm just kind of confused. It sounds
20 very --

21 MS. GERARD: It gives us an accountability
22 that is recognized in law.

23 MR. DRAKE: Well, I guess I'd like to see a
24 little bit more fully the tool that we currently have
25 and make sure that we're using our tool belt

1 effectively for things that we already have provisions
2 for in our -- in our regulations and accords.

3 But I'm certainly not a lawyer. I defer to
4 the legal folks in the room, but it just sort of smacks
5 of a lack of function. And I think we have the right
6 set of tools here to execute that function, and I don't
7 know why we're -- what we're looking to solve with
8 another tool. I think part of the issue is not using
9 the tools we have. That's just the way it strikes me
10 anyway, and I think that's kind of a --

11 MS. GERARD: We all had problems with --

12 CHAIRMAN KELLY: Ms. Showalter?

13 MS. SHOWALTER: Well, we're -- I think what
14 we're having is a general discussion of the philosophy
15 and approach to enforcement. And one of the types of
16 things that come up -- and I'm just speaking generally.
17 My agency -- various kinds of enforcement.

18 But someone -- some company will do something
19 apparently wrong, probably very clearly. Then, the --
20 staff goes in and says, this is a probable violation.
21 Then, there ensues a long, drawn-out negotiation in
22 which it goes somehow like, well, all right, we won't
23 bring this violation if you agree to A through J
24 conditions, all of which conditions are not themselves
25 either a regulatory requirement or were not themselves

1 violations.

2 But the staff will say, well, really what
3 we're doing here is prospectively getting -- applying a
4 lot of important things, and the company is saying,
5 well, what we're doing here is things we probably ought
6 to do anyway to avoid this penalty. And it all seems
7 like a good arrangement.

8 But it has a flip side to it which has
9 definitely happened in our office, and that is, first
10 of all, a long time can occur since back when there was
11 this really clear violation that started this problem.

12 And in order to avoid that, the company and the staff
13 spent lots of money. An example in my office was staff
14 in the company spent two years negotiating a settlement
15 of a lot of issues, and it had no doubt that had we
16 simply gone to a hearing, a trial -- not a trial, an
17 evidentiary hearing at the outset, we would have --
18 everybody would have saved a lot of time, which is
19 important in enforcement, and a lot of money.

20 And actually, I think there probably wouldn't
21 have been an evidentiary hearing, although the company
22 is certainly entitled to that evidentiary hearing. But
23 instead, really kind of what happens is, instead of
24 just going straight forward with the enforcement
25 scheme, which is, here's the rule. If there is a

1 violation, you get charged with it and have a right to
2 contest it. The agency puts on evidence that, yes, you
3 did it, and then we'll talk about enforcement.

4 Instead, there is a lot of coercive power of
5 the agency over the company. And both sides are
6 included in this. The company wants to avoid the
7 label, but the agency knows it holds a lot of control
8 over -- and they can do a lot of things. It's inherent
9 in all enforcement actions, not just pipeline safety.

10 So there is a relationship between A and B.
11 The safety order isn't just a safety order. It
12 probably came about because of a regulatory violation
13 or sort of the context of that.

14 So, I -- I think that very often everybody
15 would be better off and spend less money by simply with
16 clear eyes enforcing what the regulations are.

17 CHAIRMAN KELLY: Are there any comments by
18 members of the committee?

19 Yes, Mr. Fant, and then Mr. Thomas.

20 MR. FANT: (Off mike) Yeah, this is Buzz --
21 is this on? Buzz Fant with Kinder Morgan. I guess I
22 have a little concern because we started this off
23 showing safety-related conditions, but I understand
24 those are not violations. We're not talking about
25 that. We're talking about conditions that were found

1 that there are some regulatory -- on that says, if you
2 can repair these in this time, that's okay. If you
3 can't, then you have to notify us.

4 Okay. If that's what we're talking about
5 using to -- not in this grounds of negotiation of --
6 trying to negotiate out or getting a violation -- so
7 they have already recognized that -- the next step is,
8 if they're not a violation, why -- in that safety-
9 related conditions report, it would tell you what it is
10 we're doing in the effort of safety -- while we are
11 getting things in order to, whatever, take the proper
12 remediation.

13 So I'm really not sure, one, if this
14 satisfies the kind of things that you all were
15 addressing, number one. Number two, just to help
16 delineate what it is we're talking about, did you use
17 an example of discussions you've had in your office?
18 Say -- take third party damage. How would -- if that
19 end up as a safety-related condition or not, but take
20 third party damage. What would you envision would be
21 in a, quote, "safety advisory" -- excuse me, a "safety
22 order," and then, how would you -- how do you all
23 envision that playing out in terms of this negotiated
24 agreement to do so?

25 MR. KASTANAS: Without having the benefit of

1 everything we've discussed, we'd look at probably third
2 party damage, what are you doing in your damage
3 prevention, are you fulfilling those mandates. You
4 know, where -- where are you losing -- where are you --
5 are you having significant problems with third party
6 damage that you're not doing, okay.

7 Now, if it's -- if the portions of the
8 regulation that are in violation that you're not going
9 out and locating pipe when -- when called upon and so
10 forth, that's a clear violation. But if there are
11 other things that are happening -- it might be a
12 proficiency issue. It might be OQ, okay, not
13 necessarily that it shows that it's -- it's right at
14 this point a violation. But if you don't take some
15 kind of action -- it's an opportunity to take some
16 proactive action before it turns into what we would
17 consider a violation.

18 It's -- it's hard to qualify or quantify each
19 one of these as to how -- what -- what it says is, even
20 -- even when you say in the report you're going to do
21 this, what is our recourse if you don't do it right
22 then. When you file -- after 10 days a discovery that
23 I can't fix it -- I can't fix this now but I will fix
24 it in 30 days and do this, and 30 days goes by and you
25 still haven't got it fixed, what's our recourse right

1 now. Are you in violation.

2 CHAIRMAN KELLY: Before you respond, I think
3 what we've heard around the table is a lot of questions
4 and perhaps a lot of information that you can take back
5 and work with, and perhaps put some information
6 together that can go out to the committee members in
7 advance of the meeting so that the committee members
8 can think about it, talk about it with their own
9 staffs, and perhaps bring, you know, some more useful
10 information back to the table so that perhaps we could
11 revisit this at our next meeting.

12 Now, before I completely shut off the debate,
13 Mr. Thomas has been waiting to say something, and I'd
14 like you to get your comment on the record.

15 MR. THOMAS: (Off mike) Well, it's very
16 similar to the committee members' analysis. Looking at
17 the -- the examples of all the things that are threats
18 to integrity, is what they are, that we're talking
19 about prevention here, not after-the-fact violations.
20 In the past, we've worked very closely with OPS on
21 those kinds of issues and come to agreement. I agree
22 with that.

23 I also understand the -- enforcement tool. I
24 think there are problems with that -- our company is
25 extremely averse to violations and orders, as was

1 mentioned. Fines, just as an aside, the size of the
2 fine doesn't matter. The fact of it is what matters.
3 So we go to great lengths to avoid --

4 I think Denise was kind of onto something
5 just in the wording here. The "safety order," just the
6 tone about it would be troublesome to us in the
7 situation in which we're working cooperatively with OPS
8 and we're going to get the problem solved.

9 Understanding that if we don't for some
10 reason, and OPS says we've -- a lot a stake to working
11 together to get it done. That would be a problem for
12 us.

13 CHAIRMAN KELLY: Thank you.

14 Well, you've got a lot of thoughts here on
15 the table, and hopefully it's been helpful to you. And
16 we'll look forward to discussing this again at a
17 subsequent meeting. Thank you.

18 MR. KASTANAS: Thank you very much.

19 (Brief recess)

20 MR. JOHNSON: Thank you. Dave Johnson, Cross
21 Country Energy Services. I had just two or three
22 comments that I'll try to make very briefly on the last
23 presentation.

24 I think, to -- to address one of the comments
25 or one of the comments or questions about the -- the

1 list of the seven items that have to be considered, I
2 think those are not only in 225, I think those came out
3 of the statute. So, I believe that it would take
4 legislative action to change those -- those items.

5 On the safety order item, I think that
6 something that wasn't talked about here today -- I'm
7 not sure how -- how aware all of the members of the
8 committee are of this. But in -- in Part 190, there
9 are a couple of tools available that -- that seem to me
10 to be appropriate for this kind of work.

11 One is a warning letter, which is established
12 in the regulations and puts an operator on notice. It
13 is not an order, it is a letter, and it lets the
14 operator know that if he doesn't take certain actions
15 that he could be in violation. So there is a provision
16 for follow-up.

17 The other that was not talked about is the
18 consent order, and that is when -- when the agency
19 believes that there is a violation that they can enter
20 into discussions with the operator and, without issuing
21 a notice of probable violation, they can enter into a
22 consent order with the operator that is enforceable and
23 requires the operator to take certain actions.

24 Many of the conditions in the matrix that was
25 up there are pipeline conditions that exist to varying

1 degrees. Third party damage was -- was one that Buzz
2 mentioned. I'm not sure what that means because it's
3 something we have to deal with and be aware of,
4 monitor, and manage every day as a pipeline operator.
5 Every day we deal with that. We get one-calls for
6 locates every day.

7 Other ones that are maybe a bit higher
8 profile, like stress corrosion and cracking. Well, you
9 know, kind of, what does that mean? Do you have it at
10 all? Is it like 5 mils deep and you can -- can just
11 buff it out with -- with a buffer? Or is it a real
12 threat to the integrity of the pipeline. There are
13 degrees of this.

14 Many of these items we have to deal with in
15 our normal operations and maintenance practices and
16 procedures, again, on a daily or periodic basis.
17 Others are handled in design, construction, testing,
18 and a good number of those -- my eyes are getting bad,
19 so I couldn't read the whole list. But a number of
20 them also have to be dealt with in our integrity
21 management plans. And I know that the ones that I
22 could read are in my plan.

23 So, this -- so, some food for thought for the
24 committee. Before we -- we embark on creating new
25 enforcement tools that are as yet not very well

1 defined, let's look at the tool kit that we have now
2 and see if it's maybe adequate for the task at hand.

3 Thank you.

4 CHAIRMAN KELLY: Thank you.

5 We'll now move to the next agenda item.

6 Mr. Hall?

7 Brief & Discuss: National Pipeline Mapping System

8 Sam Hall

9 MR. HALL: Thank you.

10 I'm Sam Hall. I'm the Geographic Information
11 Systems manager for the Office of Pipeline Safety.
12 Steve Fisher, who you probably all remember as being
13 the GIS manager, he has moved to Houston and is still
14 working for OPS. And he is still involved with the
15 National Pipeline Mapping System. He is involved with
16 the leadership of that. Any rulemakings that may need
17 to be pushed out he will work on. He's involved with
18 integrity management work and some encroachment
19 studies. I've taken over the day-to-day operation of
20 the -- of the GIS.

21 I'm going to be brief here because I know
22 that we're already running late.

23 The -- what I really want to leave you with
24 today is that the NPMS is a success story. We've
25 gotten nearly 100 percent of the mileage that we

1 intended to collect that is jurisdictional to the
2 Office of Pipeline Safety.

3 And the other thing I want to leave you with
4 is that we have some work to do in order to bring the
5 NPMS up to the level it needs to be in order to
6 accommodate some of the changes that we're intending to
7 make in the Office of Pipeline Safety as an
8 organization.

9 I'm going to quickly give you an overview of
10 the NPMS so that our new members will understand what
11 it is that we're talking about, talk some about
12 compliance with the Pipeline Safety Improvement Act
13 that mandated operators to submit data to the NPMS,
14 talk about some of the data quality issues that we have
15 internally and how we're going -- how we envision
16 making some connections with other databases within the
17 Office of Pipeline Safety through the NPMS, and then
18 talk about integrity management tracking and permit
19 streamlining.

20 And this dovetails to some degree off of
21 Roger Little's discussion yesterday of integrity
22 management and permit streamlining, and the memorandum
23 of understanding that we have with several federal
24 agencies.

25 Some background. The NPMS is a geographic

1 information system that contains the hazardous liquid
2 and natural gas transmission pipelines, LNG facilities,
3 and breakout tanks. The pipelines and the LNG
4 facilities are required, but the breakout tanks are a
5 voluntary submission to the NPMS. We do not collect
6 gathering lines or distribution lines.

7 We use it internally as a decision support
8 tool, and most of that work goes towards integrity
9 management. We can report out a lot of statistics from
10 the NPMS to assist with integrity management and
11 inspection plans. And it's really a very effective
12 visualization tool for our internal staff as well as
13 our external customers.

14 The NPMS is -- contains sensitivity security
15 information on drinking water resources, pipelines
16 themselves, LNG facilities, and so forth, so we limit
17 access to federal, state, and local government
18 agencies, as well as pipeline operators. Pipeline
19 operators only see their own lines. They don't see
20 others' lines, so there are no conflicts in terms of
21 competitive advantage.

22 The public has access to the NPMS through a
23 -- doesn't render maps. It's a tool that allows the
24 public to enter a zip code or a county and get a list
25 of operators that is within that zip code or county and

1 the contact information -- the public contact
2 information for the operators in that county. That was
3 a requirement of the Pipeline Safety Improvement Act.

4 Like I said, the PSIA requires operator
5 submissions to the NPMS, but assessing that compliance
6 was a very difficult task. It took us probably six
7 months to get through that, and the reason for that is
8 that operators are allowed to submit at this time --
9 because the NPMS has evolved from a voluntary system,
10 operators are now, as it stands, allowed to submit data
11 to the NPMS as they choose.

12 So, if there is a business relationship
13 between two distinct operating companies with two
14 distinct operator IDs, one company can submit mapping
15 information for the other company or for several
16 companies, and we don't have rules that say that you
17 have to identify that these lines are with this
18 operator ID, these lines are with that operator ID, and
19 so forth.

20 So, what we have in the NPMS is really a
21 subset of the universe of operators as listed in the
22 NPMS, when in fact we have all of the data that is
23 operated by all the pipeline operators. So our problem
24 was, in comparing the NPMS with annual report
25 information and trying to assess who had and had not

1 submitted information to the NPMS.

2 We -- we had to go through several compliance
3 actions, including a request for specific information,
4 to ask pipeline operators if they had submitted their
5 data through another operator ID, so on and so forth.

6 Bottom line is, we eventually got to the
7 point where we have 99.9 percent of the transmission
8 mileage under our jurisdiction in the National Pipeline
9 Mapping System. And the very little mileage that we
10 have not received yet from operators we are pursuing
11 with compliance actions.

12 In May of 2003, we discussed in a public
13 meeting some potential changes to the National Pipeline
14 Mapping System. At that time we were talking about
15 improving the accuracy of the maps from plus or minus
16 500 feet to more accurate, and we talked about
17 collecting some additional attributes. We got some
18 great comments and some great feedback from those
19 meetings, and we've been considering -- still
20 considering some changes to the NPMS, although our
21 focus has shifted slightly.

22 We've gotten some input from the trade
23 associations since that meeting to discuss some changes
24 to the NPMS, especially as it relates to integrity
25 management tracking and so forth, and I'll talk about

1 that in a minute.

2 We are still considering additional
3 attributes for integrity management oversight, and then
4 the -- one of the major efforts that we do need to
5 tackle is synchronizing and aligning the NPMS with
6 annual reports.

7 I think, Denise, yesterday you talked about
8 the operator ID problem, and that's certainly something
9 that we need to fix.

10 And along with that, since the NPMS really
11 does not reflect the same operator IDs as we have in
12 all of our other systems, our efforts really need to be
13 focused on making sure that the NPMS is submitted at
14 the same time as annual reports and that the annual
15 reports and the NPMS reflect the same information. So,
16 if Operator 12345 submits an annual report for 10 miles
17 of natural gas pipeline, they also submit the National
18 Pipeline Mapping System at the same time 10 miles of
19 pipeline that is identified with Operator ID 12345.

20 Once we get to that point, it's going to
21 really allow us to integrate a lot of our data and to
22 quickly and effectively visualize who is under our
23 jurisdiction.

24 As I mentioned, Roger Little yesterday talked
25 about integrity management tracking and permit

1 streamlining. A quick overview. Integrity management
2 requires time-sensitive repairs to pipelines. These
3 repairs can be delayed through the permitting process,
4 as defined by the -- state agencies that put those
5 requirements out.

6 Delays in those repairs can -- basically
7 means that the operators have to lower their pressure
8 on the pipeline if they can't get their pipeline
9 repaired within the required amount of time, and those
10 delays, if they do lower their pressure, will impact
11 the energy supply, potentially.

12 So, the OPS and several other federal
13 agencies have entered into a memorandum of
14 understanding to streamline the permitting process.
15 And the key -- why I mention it here is that the MOU
16 calls for the NPMS to act as a communications portal
17 for operators and permitting agencies. It's going to
18 -- it basically calls for the NPMS to be the front
19 man for streamlining this permitting process.

20 We -- we have some tentative ideas of how
21 we're planning to use the NPMS as a front end, and I
22 don't want to get into specifics today, but the -- the
23 thing I do want to say is that we are considering IT
24 solutions for -- for meeting the requirements of the
25 MOU and using the NPMS as a communications portal.

1 This last bullet topic was discussed in
2 another session. It's really referring to Roger
3 Little's discussion of the same thing.

4 Someone talked to you today about compliance.
5 We are successful in getting 100 percent of the data -
6 - virtually 100 percent of the data. We do need to
7 make some data improvements to allow for some
8 integration of disparate databases within the Office of
9 Pipeline Safety, and I've talked to you some about the
10 IM tracking and permit streamlining.

11 Thank you.

12 CHAIRMAN KELLY: Comments or questions by
13 members of the committee?

14 Ms. Epstein?

15 MS. EPSTEIN: Sam and I have talked a little
16 about this, but I did a search for the local area of
17 pipelines, and there were a few things that weren't
18 quite accurate. I'm just wondering if that's something
19 you've encouraged industry to do and others to do and -
20 - around the country and a sense of quality control. I
21 know the mileage may be there, but the lengths may not
22 be definitely right, that kind of thing.

23 MR. HALL: Certainly. One of the -- one of
24 our biggest quality controls is the inspection process.
25 It is a -- it's a stretched out quality control. But

1 when -- when our inspectors go out to visit all these
2 pipeline operators, they have an opportunity to check
3 up on whether or not their data has actually been
4 submitted and whether or not those lengths are still
5 accurately depicted in the National Pipeline Mapping
6 System. And so, that's one of our base quality
7 controls.

8 To answer your question, we haven't
9 encouraged external folks to check up on whether or not
10 the system is accurate and complete, although we do
11 have some congressional overseers who have done quite a
12 bit of that. And we're continuing to chase down any
13 discrepancies that we have between the real world and
14 what's depicted in the system.

15 MS. EPSTEIN: Sir, are you waiting for the --
16 I mean, I guess I'm wondering, when do you think it'll
17 be as accurate as it could be?

18 MR. HALL: I think it's an ongoing process.
19 I think it's currently as -- as accurate as it can be,
20 and it is continuing to improve in accuracy over time.
21 I think -- I think that answers the question.

22 CHAIRMAN KELLY: Any other comments or
23 questions from committee members?

24 (No response)

25 CHAIRMAN KELLY: Members of the public?

1 (No response)

2 CHAIRMAN KELLY: Thank you for a good
3 presentation.

4 Mr. O'Steen.

5 (Pause)

6 Update: Energy Impacts

7 Jim O'Steen

8 MR. O'STEEN: Yes. Let me first clarify. I
9 have two items. One is -- well, one is on energy
10 impacts and one is on security.

11 In the agenda, it indicates both of them are
12 just updates. Actually, the first piece is really a
13 discussion piece, and the second is an update.

14 I will spend most of my time on the first
15 item, and maybe five items on the security issue. So,
16 if that's -- if that's agreed?

17 CHAIRMAN KELLY: That's fine.

18 MR. O'STEEN: All right. Thank you.

19 All right. The first item really -- we're
20 putting in here is a thought piece for you because as
21 -- more and more as we look at integrity management,
22 look at security, we're seeing more and more energy
23 supply issues. And so, we want to make you aware of
24 some things that are going on, and also give you some
25 thoughts and ask you some questions to really consider

1 to give us some feedback to see whether indeed we do
2 have a major issue or not.

3 And really at issue is, are the nation's
4 strategic energy supply needs being addressed with
5 respect to the national -- excuse me. The national
6 pipeline system. And the question is, does the system
7 really meet the nation's needs with respect to energy.

8 The first thing I want to give you a little
9 bit of background and to make you aware -- and for
10 those of you in the industry, I apologize because
11 you've seen this a dozen times. But I want to mention
12 the -- for the new members and people who are not aware
13 of this, the Regional Natural Gas Study.

14 And the purpose was really to -- to analyze
15 and quantify regional natural gas markets' ability to
16 absorb -- losses and reallocate gas supplies during a
17 significant energy disruption.

18 And it quantifies, really, several aspects;
19 one with respect to reallocation to users, and the
20 other, more the bottom line, essential human needs.

21 It was done in a net type analysis that
22 looked at the markets -- looks at flow and looks at
23 market forces to make the predictions. So it was
24 performed. The initial analysis was performed on the
25 northeast United States, and it was done by INGAA and

1 AGA. And it was performed by environmental analysis --
2 energy and environmental analysis.

3 Since that analysis, and that -- the results
4 of that analysis, I think, kind of shocked everyone,
5 the Department of Energy picked it up and has continued
6 this analysis process to look at other regions in the
7 country.

8 They have formed a -- they're trying to get
9 outreach and essentially as much broad input as they
10 can into this process. They've developed a steering
11 committee, as you can see, of a large cross section.
12 They're looking at studies in the southeast, the upper
13 midwest, and in the Pacific northwest.

14 Now, I'm not going to show you the results
15 because, basically, it's security-sensitive
16 information. I know there's been some comments for --
17 at certain meetings that too much information was
18 potentially released on the study.

19 Let me just say that it -- it points out
20 vulnerabilities, and -- and it's interesting because,
21 between the different regions, area results show that
22 the vulnerabilities are different and the consequences
23 are different. Because, essentially, the nature of the
24 markets in those areas and also the nature of the
25 pipeline system.

1 What was done in the first study, and it's
2 going to be done in the -- the follow-on studies, is
3 the information was shared with operators and with
4 states, and they basically took it and said, is this --
5 is this really realistic, and what can we do to use
6 this information to help us better prepare ourselves
7 for these conditions.

8 Basically, it looked -- it looked at, as we
9 all know, much of the pipeline demand is very seasonal.

10 So it looked in the seasons that put the greatest
11 demand on the system, and typically, that's -- that's
12 where you have the greatest problems. And it came down
13 to, essentially, how many days -- if you lost a major
14 element, how many days of supply before the market went
15 to pieces, and how many days did you have before the
16 essential needs were not being met.

17 Next steps. The -- they're looking at
18 essentially -- they're going to have a stakeholder
19 meeting, and that's going to take place this month, the
20 17th and 18th. And they're looking at other regions,
21 particularly things like looking at producer regions.
22 What impacts do you have when you study the producer
23 regions as to the vulnerabilities you would find there
24 and the ripple effect throughout the entire system,
25 more clearly identifying regional vulnerabilities,

1 infrastructure interdependencies, and economic impacts.

2 Now I'm going to move on to the more general
3 question, and that question is, is there a need to
4 improve the national pipeline system's reliability.
5 And when I say pipeline system, I'm not talking about
6 individual systems. I'm talking about the entire
7 national system. Is -- does the national system really
8 meet the nation's need with respect to supplying
9 energy, and is it reliable enough in meeting those
10 needs. It's not -- I'm not looking at that in respect
11 to any one company, whether you are reliable enough to
12 meet the needs of your customers. It's really the
13 system.

14 You know, every -- and I'm speaking to the
15 choir here. Everyone knows -- I mean, the pipelines
16 are the arteries of industry, of the energy system.
17 They transport two-thirds of all the energy consumed in
18 the United States. Critical to the nation's physical
19 and economic health and security, and critical to the
20 national defense.

21 But they've been designed around economic
22 needs, so they're optimized to a great extent to meet
23 the economic need of the market. And so, currently,
24 most of these systems, or many of these systems, are
25 operating near their maximum potential in many regions.

1 Although it's a large system and there's a
2 lot of redundancies, it's not necessarily redundant in
3 every place, and there are parts of the country where
4 there are single or just two feeds to provide supply to
5 the entire region.

6 Integrity management regulations essentially
7 amplify this problem. We -- on the slide, it talks
8 about natural disasters, terrorism can all have
9 impacts. But integrity management, as we all know,
10 doing the -- actually doing the -- the pigging and the
11 other assessments can have disruptions on the lines.
12 And then, doing the repairs can result in disruptions
13 on the lines.

14 And now, put that over -- overlay that on a
15 system that is already near capacity, and you have
16 impacts of some sort that -- such as a terrorist event.

17 Now the impact is even greater because the margins are
18 even smaller than they -- than they are in the system
19 in its normal operation.

20 We have seen in the last year -- we have -- I
21 say in some respects it's good, in others it's bad.
22 We've had -- we've done many corrective action orders
23 in the last year as part of our -- our stronger
24 enforcement policy. And basically, most of those come
25 from accidents. So that's -- that's the bad part. The

1 good part is, we're taking, with the industry, very
2 strong action to identify what the problems are in
3 those lines and correct them.

4 But in many of those cases we have seen
5 specific incidents where those corrective action orders
6 have had to wait at times. We've got safety, which is
7 our first priority, and then we've got an energy
8 supply, particularly when we're in the middle of the
9 winter, as an example, and it's -- it's in an area
10 where it's cold. You have great concern. I know the
11 industry has great concerns to meet the needs of the
12 customers. We have great concern that people in need
13 get that energy so it meets their -- really, it's a
14 safety issue in -- in that sort of an environment.

15 And we've found that other modes -- because
16 we've looked and we work with the Department of Energy.

17 Are there other modes of transportation that can fill
18 in and take care of this while we get this line
19 repaired, and in many cases, there are no other modes
20 that really have the capacity and the means to provide
21 a backup.

22 Another factor is the fact that demand is
23 increasing. Energy demand is increasing. There's a
24 need to build new pipelines, yet I hear repeatedly it
25 is very difficult to build a new pipeline. And so the

1 situation will get even more severe as we move forward.

2 Hazardous liquid pipelines, I think, have an
3 even more difficult time than gas pipelines because
4 they really don't have a federal agency that's there to
5 really address national strategic or economic interests
6 of their pipelines.

7 So really, it comes down to a couple
8 questions, and I'll leave you these questions and then
9 I would like some -- some discussion. Is there a need
10 to improve the pipeline system reliability to address
11 national strategic, economic, safety, and security
12 needs? And, how can the nation plan for a pipeline
13 system that provides for more reliable, safe, secure
14 energy supplies?

15 So, is there -- is there a problem here, and
16 how do we go about trying to solve that problem?
17 Again, I'm suggesting there is a need to look at a more
18 strategic view, and I give an example. The interstate
19 highway system in the United States; everyone's
20 familiar with that and we all think of it as the
21 interstate highway system. But it's actual is the
22 Interstate and Defense Highway System. It was built
23 with the strategic view that it needed to meet not only
24 the economic needs of the nation, but it had to meet
25 the defense needs of the nation and had to be redundant

1 in doing so.

2 So, with that, Chairman, I leave it to you.

3 CHAIRMAN KELLY: Thank you.

4 Questions or comments from members of the
5 committee?

6 Mr. Lemoff?

7 MR. LEMOFF: I found the presentation very
8 interesting, but I do have a fundamental question. Is
9 this outside of our scope? Aren't we a safety
10 committee? Not that I'm not interested in helping,
11 don't get me wrong, but I just wanted to ask that
12 question. Thank you.

13 CHAIRMAN KELLY: All right. Ms. Hamsher?

14 MS. HAMSHER: (Off mike) I'm not sure if Andy
15 was -- in general, energy supply and reliability and
16 security is more in the Department of Energy and
17 business. These are not -- these are privatized, you
18 know, entities, and I would agree.

19 However, I do think -- and I actually
20 appreciate for the first time that this aspect is
21 brought into this, because it does impact the way that
22 the program looks at integrity management, and
23 indirectly that -- that issue is an issue of security
24 --

25 So I -- I hear you, but I do think that

1 actions that are taken by the Office of Pipeline Safety
2 do impact energy supply, and the fact that you're
3 considering that as you're making either strategic
4 decisions about your program or individual actions
5 based on a particular operator --

6 Just one question. I don't know if you have
7 an answer. A lot of the focus was on natural gas, as
8 it should be. That was the initial --

9 I'm interested to know if you are aware of
10 DOE's effort on doing at least a sample study on some
11 of the problems with --

12 MS. GERARD: I asked Jim to make his
13 presentation today because -- for a number of reasons.
14 Number one, we find that we are increasingly dealing
15 with this issue as we look at safety and make decisions
16 about whether to impose the orders or not on pressure
17 reduction and how much.

18 And we're writing those orders at a -- a rate
19 that's three times what we wrote in the past. So,
20 we're in an unprecedented place. And I'm here to tell
21 you that within the federal family of the Department of
22 Energy, the FERC, the Department of Defense, the
23 Department of Transportation, to our knowledge, there
24 is very little opportunity to have these kinds of
25 discussions. And this is really our boss's concern.

1 There is very little about what we're doing that he's
2 very troubled about. He has a lot of confidence in
3 what we're doing and how we're improving the program.

4 But there's been a number of occasions where
5 an event has happened where there has been a defect
6 identified in the line that, according to the criteria
7 that we've all agreed on through due process, would
8 lead us to a pressure reduction that would keep people
9 from traveling on a holiday in New England at all, that
10 the transportation system would come to a grinding halt
11 unless we could find a way to say that we know enough
12 about DOT on this particular pipeline to be able to say
13 that defect, despite what the regulations say, can't
14 hold until we can find a way to work with the
15 permitting agencies to get the repairs done.

16 And so he's concerned about looking long-term
17 and creating an environment where these kinds of
18 discussions can be held and we can look at bringing the
19 entire government together, not just Department of
20 Transportation but others, and looking at how all these
21 factors come together.

22 It has been very difficult, for example, for
23 us to go to the FERC, who we didn't have much of a
24 relationship with before a couple years ago, and say,
25 you know, do you realize what the integrity management

1 implications are going to be. You know, we have a good
2 relationship today but, you know, we just don't have
3 time to absorb each other's problems very much.

4 So, we're afraid that we're short-sighted
5 here and are looking for your advice about the need to
6 create an opportunity for some -- some vision here.
7 You know, it is an administration issue to look at
8 energy policy.

9 When the law was written requiring the
10 intervals for testing and retesting in the Gas
11 Integrity Management Rule, there was absolutely no
12 discussion with us in the Department about the impact
13 on supply. Try though we may, we needed to find a way
14 to give voice for what we thought was a very legitimate
15 concern on the part of INGAA.

16 These questions weren't even being
17 entertained, and we feel that there should be an
18 environment to entertain them. And we realize that
19 we're only a piece, but there's a relationship between
20 supply and safety. If -- if we can't see the supply
21 move, there's an awful lot of people who are going to
22 freeze to death or be walking, which is another kind of
23 total safety issue.

24 You know, so we're -- we're really directed
25 to put this issue in front. We just didn't get smart

1 guys sitting in this room's view -- and women -- view
2 about, you know, is there an issue here that we should
3 try to bring to the attention of others in other
4 federal agencies.

5 I can't tell you how hard it is for us to get
6 the environmental resource agencies to think that
7 leaving pipelines deregged indefinitely is a concern to
8 the nation. We have been working on this issue for
9 months, and there's many agencies in the government who
10 are quite happy to say it's okay to dereg the entire
11 pipeline system indefinitely. So that's how low the
12 awareness is about the margins here.

13 CHAIRMAN KELLY: Dr. Willke?

14 DR. WILLKE: Ted Willke. It's hard to get a
15 handle on this question. You know, we spent 20 years
16 now going from a highly regulated industry to one
17 that's driven by market forces, and then we look at the
18 implications of the integrity management program and
19 realize that we may have some effect on capacity and
20 supply, so that brings us into the game.

21 Two thoughts. Without knowing what you know,
22 Jim, it's very hard to make any judgment about whether
23 or not this is an issue that we ought to weigh in on on
24 the face of it because it's -- we don't know what you
25 know and what you don't know, and we don't know what we

1 should be concerned about.

2 The second point I want to leave you with is
3 that if we don't study the issue in one form or
4 another, and maybe Stacey was making this point,
5 somebody else will. And then it will be a safety
6 concern or a capacity concern.

7 I guarantee you that the Department of Energy
8 will study this question. In fact, Oak Ridge National
9 Laboratory already has an intermodal transportation
10 network model, and they're -- they're right at the
11 point where they could put pipelines into it. I'm not
12 sure they've done so already, but in a sense I'm
13 tempted to say we probably should weigh in on the
14 question to some extent in order to have a seat at the
15 table.

16 CHAIRMAN KELLY: Mr. Thomas?

17 MR. THOMAS: (Off mike) I think I see the
18 linkage between the security aspect in this committee
19 and OPS. Clearly, the impact in security of an event
20 that might occur is certainly when planned would
21 include multiple -- as opposed to our reliability
22 measures tend to be random and very localized on one
23 aspect of the system.

24 So, in terms of providing in our case gas or
25 liquids to the -- I think that the OPS will need to be

1 in a position of perhaps waiving regulations or
2 thinking of ways to get through them in order to get
3 certain things rolling in construction and the
4 operation of the existing system.

5 So, in that regard, I would say it's a
6 planning item that, yeah, OPS does need to be in on
7 thinking about any security threat to our
8 transportation system in this committee, also.

9 CHAIRMAN KELLY: Is that the kind of
10 information you were looking for?

11 MR. O'STEEN: It helped. Let me just add a
12 point to that, though.

13 I agree on the security -- security is a
14 concern, but the reality is, safety is even worse in
15 many respects because security very often, you know, an
16 attack is going to take place in one or two places, or
17 something of that sort. And it's bad because, you
18 know, they're going to -- they're going to think this
19 thing out and they're going to do it in a very
20 vulnerable place.

21 But one of the problems with safety is, when
22 we have a failure in a system and we don't know the
23 cause, or we have a cause that is more a systemic cause
24 across the entire line, with a security issue, were
25 they blown up, you can go back and repair it. In a

1 safety issue, you have to -- you have to derate the
2 line, you have to go back, you have to evaluate the
3 entire line to determine, once you've determined what
4 the cause is, where you have that same sort of defect
5 throughout the system, go through all the process of
6 identifying those, and then you must correct all of
7 those -- all of those sites. That can take years in
8 some cases.

9 And so, it's a very long-term impact,
10 potentially. And when you have systems that maybe are
11 operating at, you know, 90-some percent of load
12 capacity, at their full capacity, and you say, well,
13 you've got to take a 20 percent pressure reduction
14 here, and now there's only one other -- one line that
15 supplies the -- the product into that region, you've
16 got a regional problem.

17 And so that's --

18 MS. GERARD: And we do.

19 MR. O'STEEN: And we -- we've been there,
20 unfortunately, too many times in the last six months to
21 a year.

22 MS. GERARD: And you all don't have a concept
23 of how many lines are operating at pressure reductions
24 now. Prior to the last couple years, there was never
25 an instance where more than 12 lines were under

1 pressure reduction orders at one time. I don't know
2 how many we have under orders for pressure reductions
3 right now. I can just imagine that the number is
4 increasing because I know they're writing more and more
5 orders.

6 CHAIRMAN KELLY: Mr. Comstock?

7 MR. COMSTOCK: Taking it to a more simplistic
8 level and local level, as an operator with a natural
9 gas distribution company who is relying upon a single
10 source to feed our city, reliability is critical to
11 service to our customers. We got IMP this year, and it
12 was quite an experience. We had to bring in LNG
13 service to keep our system on as we went through the
14 process and the readiness for pigging and so on. We
15 worked with our supplier.

16 But again, it brought home the need for
17 reliability to make sure our customers were kept on and
18 our city was kept on.

19 In addition to that, we experienced in
20 Arizona another issue about supply. It was unique to
21 sit through that. We went through -- through that
22 system.

23 So, we have a good perspective on what that
24 means for a reliable infrastructure, and I think that
25 -- I think the discussion belongs here.

1 CHAIRMAN KELLY: The comments that are on the
2 table seem to indicate that members of the committee
3 believe or agree with you that OPS should be at the
4 table for any of these impact -- engineering impact
5 issues because ultimately they will have an effect on
6 safety.

7 So I'm not sure, is there something more that
8 you're looking for from the committee?

9 MS. GERARD: I think what we're looking for
10 is for you to -- when you're driving to work or taking
11 a shower and you have some creative time to yourself,
12 if there is time like that in your life --

13 (Laughter)

14 MS. GERARD: Think about it from your unique
15 vantage point and think about, if you could wave a
16 magic wand and create a better environment to plan
17 this, what elements would you introduce? How would you
18 change your system? What would it take for you to add
19 components to your system to address choke points? And
20 how we help the government work to support you doing
21 that could provide a better environment to be able to
22 strengthen the system, have the redundancy in the
23 system.

24 I think as individual operators, you can
25 probably give some thought to where those places might

1 be where the impact would be the worst. And you might
2 have done this already individually in your security
3 plan, but then think about -- you know, take it out to
4 other dimensions. You may know that, but -- you know
5 it's possible to do anything about it because of the
6 operating environment. But what if we made a concerted
7 effort to bring the force of the federal government,
8 state government to help change that environment? You
9 know, what are the variables that could be improved?

10 CHAIRMAN KELLY: Any comments from members of
11 the public?

12 MS. MATHESON: Marty Matheson, American
13 Petroleum Institute. I just want to make sure that we
14 don't set ourselves up to have people think that our
15 integrity management actions will be an impact to the
16 supply situation in this country. I think we need to
17 characterize this differently.

18 We are having an integrity management program
19 so that we prevent accidents from happening. We are
20 going to a level beyond a true prevention standard, and
21 a prevention standard will -- will actually give us
22 more reliability long-term than we have today.

23 We may have a transition period in the early
24 parts of the integrity management programs, but we
25 shouldn't turn it into a fear of others that somehow

1 getting safety is going to keep them from being warm or
2 being able to drive their cars.

3 So, I just want to give us a caution here. I
4 very much think we should have this dialogue and it
5 should be with other agencies as well because this
6 agency understands what it takes to operate a pipeline
7 system. But let's not make integrity management part
8 of the problem.

9 CHAIRMAN KELLY: Dr. Feigel?

10 DR. FEIGEL: I certainly don't disagree with
11 what Marty just said in isolation, but I think we
12 really need to look at the bigger picture.

13 If we look at what happened in August with
14 the blackout and how that was managed both by the
15 industry and by the federal government, parallels are
16 certainly appropriate. But -- and there are a number
17 of parallels there. That's a much bigger issue that
18 pulls in the entire range of making both private
19 industry and government decisions about siting, about
20 capacity, about various, you know, life cycle integrity
21 management decisions, and to pull any one -- that's the
22 problem. We've pulled all of these pieces out, as you
23 said, Stacey. I think you put it pretty well 10
24 minutes ago.

25 I mean, for a whole variety of good

1 historical reasons, we've developed all these silos to
2 manage, you know, very specific pieces of this in
3 isolation pretty well, but we've done very badly in
4 terms of trying to integrate this.

5 And it clearly, at the end of the day, is a
6 public well being and safety issue. We shouldn't
7 simply define public safety as, don't blow this
8 pipeline up in my backyard. I mean, that is an issue,
9 but that is not the only issue.

10 Clearly, I think until we try to -- and it's
11 going to be very difficult because we've got a lot of
12 historical inertia, a lot of vested interests both in
13 the public and private sectors in terms of the way
14 things are being done today. Until somebody starts to
15 -- to exhibit some intellectual and physical spine in
16 terms of trying to address this, we're going to
17 continue to slide, I'm convinced.

18 CHAIRMAN KELLY: Dr. Willke?

19 DR. WILLKE: Just a quick thought. If we're
20 going to be asked as committees to examine this issue
21 in the future and make some -- put some guidance on the
22 record, then some mechanism has to be provided for us
23 to be better informed, given the sensitive nature of
24 it.

25 So, I think it's kind of --

1 MS. GERARD: I think there are provisions to
2 do that that we have not prepared for this particular
3 meeting. But you know, there are briefings which have
4 been provided, and different agencies are handling the
5 sensitivity differently. But I think that we could --
6 we would probably have to hold a closed session to be
7 able to have the security-sensitive --

8 CHAIRMAN KELLY: (Off mike) -- to close
9 because of security --

10 MS. GERARD: But if it wasn't an advisory
11 committee meeting but an invitation by the Department
12 of Energy to have a briefing as part of their
13 orientation.

14 CHAIRMAN KELLY: That may be -- but we'll
15 leave that issue with staff to work out.

16 Ms. Schelhaus, you had a comment?

17 MS. SCHELHAUS: (Off mike) I actually think
18 you had two issues for the -- it's already identified
19 that there's regional vulnerabilities that are
20 different. We actually have areas that have already
21 started addressing those -- try to come up with those
22 --

23 The other thing is the reliability -- year
24 2000 so that you have two sources of electricity coming
25 in at two different areas, so that if one gets cut off,

1 you still have power, you've got electricity from -- so
2 there are two different areas to work on, and I -- I --

3 MR. O'STEEN: Thank you.

4 CHAIRMAN KELLY: Did you want to make some
5 comments about --

6 MR. O'STEEN: Security.

7 CHAIRMAN KELLY: -- pipeline security?

8 MR. O'STEEN: Yes.

9 Update: Pipeline Security

10 Jim O'Steen

11 MR. O'STEEN: I passed out a fact sheet, and
12 basically, it's very similar to the fact sheets we have
13 provided you in earlier meetings. I'm not going to go
14 through the whole thing because of the time
15 consideration here.

16 If you'll just flip to the last page? Let me
17 just highlight a couple things.

18 Basically, one of the questions I get the
19 most is, you know, what is the relationship now between
20 Homeland Security and the Department of Transportation.

21 And basically, the Homeland Security Presidential
22 Directive 7 was signed in December of 2003, and it gave
23 the Department of Homeland Security a lead role in
24 pipeline security.

25 And so -- but at the same time, it also

1 required the Department of Homeland Security work
2 collaboratively with DOT in setting policy and
3 regulations pertaining to pipelines.

4 So -- so basically, to guarantee us a seat at
5 the table so that we can voice concerns so that they
6 did not move forward with things that would have a
7 negative impact on the safety program or the operation
8 of the pipeline system.

9 We're basically continuing cooperation and
10 working with Homeland Security. We have together
11 essentially done an audit of the major pipeline systems
12 and security systems. We're kind of waiting for where
13 they want to go next in that area.

14 We are continuing to provide information to
15 the industry about threats and information on security.

16 And we are also continuing to -- to run our exercise
17 program that we have run for years, and now we have
18 built in, essentially, security scenarios in those --

19 MS. GERARD: And added gas.

20 MR. O'STEEN: And added gas. So we're doing
21 -- we're the oil spill pipe responses. We've expanded
22 that to add security and to expand it to address gas as
23 well.

24 Okay. Thank you.

25 CHAIRMAN KELLY: Any questions on that?

1 Dr. Lemoff?

2 MR. LEMOFF: Thank you.

3 I became really very aware of the sensitivity
4 of this two weeks ago. Our liquified natural gas
5 committee -- 59A, and there was an item on the table to
6 discuss aligning the security provisions between what's
7 in our document and what's currently in Part 193. And
8 it was kind of amazing to me. There was a great uproar
9 from many of the -- a good majority of the members
10 present expressing what I would perceive as a
11 frustration over the overlapping security efforts that
12 they're seeing from DOT, from Homeland Security, to
13 name two, but from, also, state agencies and others.

14 And I think that this -- what I would
15 recommend DOT do is try to, within the government, work
16 -- at least the federal level, work to make this
17 seamless so that if there's an operator, they know that
18 whatever is in let's say Part 193 LNG plans may be
19 enforced by DOT inspectors, may be enforced by Homeland
20 Security, but at least they're going to read out of the
21 same book.

22 So that's the message I'd like to pass along.

23 CHAIRMAN KELLY: Thank you.

24 Ms. Hamsher?

25 MS. HAMSHER: Just a comment on the

1 seamlessness, and I guess it was just a compliment.
2 We've been involved -- I can't remember the name of the
3 company, but it's a security exercise. We have been --

4 (Laughter)

5 MS. HAMSHER: (Off mike) We really do
6 appreciate the cooperation on security exercises and
7 also emergency exercises and the coordination with
8 states all in one fell swoop. These are very -- so
9 lots of planning. A lot of operational people have
10 been called off their normal duties on -- and not only
11 do we appreciate the coordination, but equally that
12 they're that much more at risk because of that.

13 So, I guess our experience has been that a
14 couple of pages on our particular systems -- that
15 coordination.

16 CHAIRMAN KELLY: Any other questions?

17 Ms. Epstein.

18 MS. EPSTEIN: Just a quick question on --
19 that I might have asked, actually, related to security
20 in the mapping system to Sam a moment, but I think I
21 have the 3:00 fatigue that we discussed earlier, and I
22 didn't mention it.

23 Is there any thought to how to get additional
24 information on high consequence areas to the public?
25 Right now the -- the National Pipeline Mapping System

1 is -- is completely opaque to the public in terms of
2 high consequence areas, and I see a role in terms of
3 identifying some of those areas. It's a very tough
4 job, I realize, and I'm sure you do as well, for OPS's
5 inspectors alone and maybe some local officials.

6 I think the more people involved in that, the
7 better, ultimately. And so I'm just wondering what --
8 whether OPS is moving in that direction. And if
9 nothing else, I wanted to put that on the record of
10 this meeting because we don't meet very often.

11 MR. O'STEEN: We have talked with Homeland
12 Security, and we've made them aware of the issue of,
13 you know, how much information can be shared with the
14 public and how much needs to be protected. And it's
15 really kind of their call to some extent, eventually.

16 There are differences across the government.
17 We've pointed that out, that there are some agencies
18 who are releasing more information and other agencies
19 are much tighter in their control of the information.

20 And so, there's not an answer to that -- to
21 that question yet. I mean, currently, certainly, you
22 know, local officials can get information from the
23 mapping system. It's -- you know, it's basically on --
24 they have to go through the process of being vetted and
25 -- and then they'll get information in a local area,

1 so.

2 MS. EPSTEIN: I guess, you know, I was hoping
3 today would be an opportunity, but unfortunately the
4 representative from DHS wasn't here, and I can
5 understand you raising it. But there are others of us
6 that would like to discuss that, and is there any way
7 that something like that could happen for the committee
8 or -- or a white paper or something?

9 MR. O'STEEN: That's the -- I'm sorry. Go
10 ahead.

11 MS. GERARD: This somewhat gets into the
12 subject of the fire marshals.

13 MR. O'STEEN: Okay.

14 MS. GERARD: And maybe we could segue into
15 that. There are -- we are moving in a direction that
16 will be of interest to you, so maybe we could hold that
17 question.

18 MR. O'STEEN: Let me make, if I can, just a
19 quick statement on that.

20 Basically, the more layers you --
21 essentially, you release in the system, the greater the
22 capability you give people to use that as targeting
23 information for -- for security and for terrorist type
24 events. So --

25 MS. EPSTEIN: But there are, obviously, cost

1 benefits to releasing it for --

2 MR. O'STEEN: I understand.

3 MS. EPSTEIN: -- and some of that activity
4 with safety as well.

5 MR. O'STEEN: Right.

6 CHAIRMAN KELLY: Thank you. And thank you so
7 much, Mr. O'Steen.

8 MR. O'STEEN: Thank you.

9 CHAIRMAN KELLY: I'll Jeff Wiese if he will
10 introduce the members of the National Association of
11 State Fire Marshals who are with us today.

12 MR. WIESE: So you don't want me to respond
13 to all of the last question, okay. Good. All right.

14 Well, thanks for that, and I actually did
15 touch on this topic and I wanted you to know that I
16 looked out in the audience for our friends from the
17 fire marshals a couple times. I'm glad to see that
18 they've finally -- and they're back in the room with
19 us.

20 We have been fortunate enough for a year and
21 a half or so to have been in association with the
22 National Association of State Fire Marshals.

23 Greg McGeary is here. I don't know who's
24 speaking. Sarah?

25 Sarah Holten, Elizabeth Vector, Frank

1 McGeary, just by introduction, and we'll turn it over
2 to them for just a brief description of some of the
3 work that we're doing. But I think it's a nice segue
4 from the topic Lois was just talking about.

5 CHAIRMAN KELLY: Thank you.

6 If you'd come to the microphone.

7 MS. HOLTEN: Hi. I'm Sarah Holten, and as
8 Jeff said, I'm with the National Association of State
9 Fire Marshals.

10 CHAIRMAN KELLY: Could you get closer to the
11 microphone?

12 MS. HOLTEN: Can you hear me now?

13 (Laughter)

14 MS. HOLTEN: My name is Sarah Holten, and I'm
15 with the National Association of State Fire Marshals,
16 affectionately known as NASFM, so when I say that
17 you'll know what I'm referring to.

18 I work on a cooperative agreement that we
19 have with the Office of Pipeline Safety which we've
20 titled the Partnership for Excellence in Pipeline
21 Safety. And in the interest of time, I'll just sort of
22 go over what the objectives of that cooperative
23 agreement are, and then I'll briefly talk about the
24 structure of the partnership.

25 The first priority of the partnership and of

1 the cooperative agreement is the development of a
2 national model training program for firefighters and
3 other emergency responders focusing on natural gas and
4 hazardous liquid pipelines, both transmission and
5 distribution.

6 We're in the middle of developing that
7 program right now. We -- I think two chapters of the
8 textbook have been drafted, along with the beginning
9 outline of an instructor's guide. There will also be a
10 companion video which we're shooting on location in the
11 Phoenix, Arizona, area and also in the Houston, Texas,
12 area, and that will take place in the next couple
13 weeks.

14 The second objective of the cooperative
15 agreement is community awareness, and that will start
16 with the education of the fire service both at the
17 state and local levels, educating them about pipelines
18 and why it's important for them to understand the
19 importance of pipeline safety and be involved in
20 pipeline safety in their communities.

21 It'll also focus on -- and Jim spoke a little
22 bit -- or I guess Lois asked a question about high
23 consequence areas. One of the goals of that -- of
24 those activities is to enlist the help of the fire
25 service at the local level in identifying high

1 consequence areas in their local communities, helping
2 the pipeline operators identify those areas.

3 The fire service are probably as well
4 equipped or better equipped than anyone to help point
5 out those areas because they're the ones who, you know,
6 probably play on the -- on the baseball teams that play
7 at those local ball fields. They respond to incidents
8 in these areas.

9 So, we think that especially through the
10 local fire service and especially through the
11 dispatchers we'll be able to help pipeline operators
12 identify those areas.

13 Another goal is to just help initiate a
14 dialogue between the local fire officials, the fire
15 chiefs and fire marshals, and local -- the pipeline
16 operators in their area.

17 That's really an overview of the -- of the
18 two objectives. I'd like to talk a little bit about
19 how it's structured, how the partnership is structured.

20 Anybody who knows anything about our
21 association will know that we don't, as a whole, know a
22 lot about pipelines or pipeline safety. Only three of
23 our 51 members have any sort of jurisdiction over
24 pipelines. So, we knew that when we started this
25 program we were going to need some help.

1 We created a government committee. Stacey
2 Gerard is on that committee, along with Linda Kelly and
3 Drue Pearce. I think Jim McDonnell, the Homeland
4 Security person --

5 CHAIRMAN KELLY: He's not here today.

6 MS. HOLTEN: Okay. He's also on our -- on
7 our committee, along with representatives from the
8 FERC, the southern governors, the western governors --

9 MS. GERARD: NTSB behind you.

10 MS. HOLTEN: -- NTSB behind me.

11 Am I forgetting anyone else?

12 Essentially, they're officials from state and
13 federal government agencies who have regulatory or
14 other authority over pipelines.

15 In addition to the government committee, we
16 have an industry committee that's made up of executives
17 from pipeline companies. And it -- it spans both
18 natural gas and liquid, again, transmission and
19 distribution companies.

20 We're just now in the process of forming a
21 community committee which will be -- I don't know how
22 to explain this. It will be national in terms of its
23 membership, but it will be local in terms of its scope.

24 In other words, we want to have -- we've just asked
25 (name) from Tucson, Arizona, to chair that committee.

1 We want to have locally elected officials or
2 appointed officials, members of local fire service or
3 police organizations, public advocates, public safety
4 advocates, environmental groups, trade unions, anyone
5 who represents someone who would make up a community
6 and who would have an interest in pipeline safety.

7 So we're in the process of forming that
8 committee now. That committee will be, along with help
9 from the government and industry committees, will help
10 us oversee those community awareness activities that I
11 talked about earlier.

12 Any questions?

13 CHAIRMAN KELLY: Thank very much.

14 Any questions or comments from members of the
15 committee?

16 (No response)

17 CHAIRMAN KELLY: Thank you. We're very
18 pleased you joined us today. Thank you for your
19 comments.

20 Is there any other business to come before
21 the joint committee?

22 (No response)

23 CHAIRMAN KELLY: It's my understanding that
24 we'll plan the next meeting for some time in September,
25 and if that's so, Stacey will be getting in touch with

1 us to make sure that we have some dates.

2 If there is no other business, we are
3 adjourned.

4 And members of the Gas Committee will be
5 meeting tomorrow. We have an aggressive agenda and a
6 short period of time. We will begin tomorrow at 9:00.

7 (Whereupon, the proceedings were concluded.)

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